

THE MULTICULTURAL AGORA IN THE AGE OF GLOBALIZATION

HUMR5200

Thesis in the Theory and Practice of Human Rights



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Faculty of Law

Candidate number: 8009

Deadline for submission: May/15/2012.

Number of words: 20.151

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1. Introduction and methodology

The purpose of the present work is to scrutinize the questions posed by the coexistence of different cultures within modern society, and to illustrate what constitutes today the most plausible solutions, both from the social science perspective and the legal perspective. Among the various forms of multicultural coexistence, this investigation will focus on immigrant communities; this is not to diminish the relevance of the cases tabled by national minorities and indigenous peoples, which certainly represent other extremely sensitive and equally important arguments. Rather, my aim here is to analyse multiculturalism from the viewpoint of the *policy responses to immigration changes*, more precisely the cultural integration issues and solutions emerging from such changes.

Immigrant communities evidently are the chief propellers of societies' compositional and cultural transformation. As the political philosopher Jurgen Habermas aptly describes, "[...] the influx of immigrants alters the composition of the population in ethical-cultural respects [...]"¹ As a result, "[...] the legitimately asserted identity of the political community will by no means be preserved from alterations in the long run in the wake of waves of immigration. Because immigrants cannot be compelled to surrender their own traditions, as other forms of life become established the horizon within which citizens henceforth interpret their common constitutional principles may also expand."² Indeed, the logical resultant arising out of the coexistence between culturally different communities (when phenomena of segregation are not at play) naturally is, to a lesser or a greater extent, a societal blending. The meeting of diverse cultures stimulates the exchange of experiences and backgrounds, and ultimately produces transformations in both the local and the immigrant communities. "Even a majority culture that does not consider itself threatened preserves its vitality only through an unrestrained revisionism, by sketching out alternatives to the status quo or by integrating alien impulses – even to the point of breaking with its own traditions."³

Nowadays the immigration phenomenon has increasingly gained importance particularly due to economic globalization and modern technology which, in this age like never before, has rendered Earth a smaller place. While the issues of national minorities and indigenous peoples certainly pertain to the realm of multicultural coexistence, their claims are by definition based on historical and geographical grounds, and hence do not stem from current society transformations. Further, rather than being of a social character, such claims are essentially political, longing for 'exit strategies', with the first group holding secessionist aspirations, and the second self-determination

¹ Jurgen Habermas, "Struggles for Recognition in the Democratic Constitutional State", in A. Gutmann (ed.), *Multiculturalism: Examining The Politics of Recognition*, Princeton University Press 1992, p. 137.

² Ibid, pp. 139-140.

³ Ibid, p. 131.

(but not autonomistic) ones. Conversely, the multicultural questions posed by immigrant communities offer the chance to consider scenarios where peoples (aim to) share the same living space, that is scenarios asking for *inclusive responses*, not exclusive ones.

To better show how the circumstances, and hence the possible responses, concerning immigrant communities markedly differ from those of the other two groups of national minorities and indigenous peoples, the words of renowned social scientists like Will Kymlicka and Yash Ghai can definitely help. As to national minorities, Kymlicka argues that, faced with the multicultural dilemmas, “[...] ethnocultural groups have responded in different ways. Some have accepted integration. This is particularly true of immigrant groups. By contrast, non-immigrant minorities have resisted integration, and instead fought for self-government. By non-immigrant minorities [we] mean historically settled territorially concentrated and previously self-governing cultures [...]. Such groups include the Quebecois and Puerto Ricans in North America, and the Flemish and Catalans in Europe.”⁴ He then clarifies. “This is not to say that [...] immigrants are not raising important political demands, often under the rubric of multiculturalism. It is clear that immigrants today reject total assimilation, and seek instead some accommodation of their distinctive identities and practices [...]. But this has not taken the form of [...] nationalist movements for self-government or secession.”⁵

Similarly indigenous communities, even if not longing for political independence like national minorities, look at autonomy settlements as their ultimate goal. “Because of their small size and distance from urban centres, indigenous peoples are unlikely to have influence on national institutions and policies [...]. Autonomy for indigenous peoples is less contested than for other groups; they do not raise the same kinds of problems as the coexistence of other ethnic groups who are in competition in modern politics and economy [...].”⁶ Clearly, both cases configure situations where the stakeholders search for divisive arrangements, and not for comprehensive ones (which instead is the interest of this study).

In line with these considerations, I will point a magnifying glass at our evolving society characterized by including a growing number of cultures ‘under the same roof’. More precisely, my aim will be to identify those approaches seemingly capable of achieving a twofold result: ensuring respect and appreciation for diverse identities, both of the local and the immigrant communities, without jeopardizing social unity.

⁴ Will Kymlicka, “Modernity and National Identity”, in Shlomo Ben-Ami and Yoav Peled and Alberto Spektorowski (eds.), *Ethnic Challenges to the Modern Nation State*, Basingstoke Palgrave 2000, pp. 18-19.

⁵ Ibid, p. 19.

⁶ Yash Ghai, *Autonomy and Ethnicity. Negotiating Competing Claims in Multi-Ethnic States*, Cambridge University Press 2000, p. 7.

What in fact social scientists and lawmakers try to do is to elaborate effective answers to the dramatic questions posed by the many cases of immigrants' ghettoization and marginalization. One of the main causes of the distance between local citizens and immigrant communities is the lack of inter-cultural communication and, hence, mutual knowledge. The outcome of this is often a blind and passive acceptance of society multiculturalization, without paying sufficient attention to the risks of social fabric fragmentation.

As we will see, there are countless examples of how *laissez-faire* (not to say, often indifferent) approaches have encouraged the development of ghettos, urban areas predominantly inhabited by immigrants, structurally disconnected from the local environment and opportunities. Multiculturalism certainly embodies the strongest attempt to respond to the challenge of tearing down the walls of reciprocal fear and prejudice, and bridge diversities through communication, solidarity and mutual understanding.

Following these premises, the first part of the work will be dedicated to framing multiculturalism and its purposes. I will consider the positions of the major social scientists, liberals and communitarians, and their divide on the ways to rightly approach the multicultural society. The debate will enable us to outline their proposals, with a view to search for sustainability between multiculturalism and inter-cultural social cohesion. In that regard, I will show how the liberal position appears more suitable to reach that goal.

The scope of the second section is to examine whether if the human rights discourse supports the liberal approach to multiculturalism and, if so, how it contributes to translate its principles into real life norms. To this end, both the philosophical and the legal aspect of human rights will be taken in account. On top of recognizing a sound compatibility between liberal multiculturalism and human rights, these latter will emerge as a powerful means for inter-cultural communication and solidarity building.

The third part will be dedicated to underline the key importance of integration policies. In fact, while liberal multiculturalism and human rights permit the conditions for inter-cultural mobility and encounter, they do not *per se* promote it. In this section it will be shown how States, even when driven by liberal-democratic principles, can fail the multicultural challenge if this is passively handled, and we will see how crucial is for States to invest in attentive integration policies for the quality of tomorrow's multicultural society. By way of an example, I will describe the integration services applied in the two European countries that I am familiar with: Italy and Norway.

The last section will offer the space to draw my personal impressions, proposals and conclusions arising out of the lessons-learnt from this investigation.

2. Perspectives on Multiculturalism

2.1 Introductory framework

Defining multiculturalism is not as straightforward as it might *prima facie* appear. “Like most things in our postmodern world, ‘multiculturalism’ is a contested concept with multiple meanings at different social levels.”⁷ Indeed there exist a variety of different ways to interpret and see multiculturalism, with stronger and weaker positions. Nonetheless, for the sake of our discussion, a common platform of departure is demanded.

To this end, the argumentations fleshed out by professor McGoldrick provide us with appropriate help: “The three basic factual premises for multiculturalism are clear. Firstly, in the 20th century, many more States became permanently ethnically diverse because of territorial changes, population movements, immigrant and refugee flows. With over 120 million immigrants and over 20 million refugees, this necessarily made States more multicultural [...]. [...] Secondly, the technological and information advances expressed in the concept of globalization have made the interdependence and connections between States and their populations much closer. [...] Thirdly, there has been a rise in the political and legal status of minorities [...]”⁸

One of the linchpin outcomes emerging from the prolonged interplay of these factors has been “[a] greater understanding and respect for [...] distinctive cultures [...]. [...] From this has flowed a more positive understanding of multiculturalism, which recognises a positive value in diversity, a meaningful acceptance of other cultures and respect for their values, traditions and deep moral differences.”⁹

Additionally, even if less scientifically sound, I also would like to consider the definition offered by the notorious internet encyclopaedia Wikipedia, so to have an idea of how multiculturalism is generally perceived: “Multiculturalism is the appreciation, acceptance or promotion of multiple cultures, applied to the demographic make-up of a specific place, usually at the organizational level, e.g. schools, businesses, neighbourhoods, cities, or nations.”¹⁰ These statements confirm one certainty about multiculturalism, which will be our point of departure: its driving principles are the acceptance and the respect for cultural diversity. As we mentioned, there exist different degrees to implement such principles, the other side of the scale being the safeguard of social unity and

⁷ Dominic McGoldrick, “Multiculturalism and its Discontents”, in *Human Rights Law Review* 5:1, Oxford University Press 2005, p. 28.

⁸ Ibid, pp. 30-31

⁹ Ibid, p. 31.

¹⁰ ‘Multiculturalism’, definition extracted from Wikipedia <http://en.wikipedia.org/wiki/Multiculturalism> [accessed 6 January 2012].

solidarity. This in fact is exactly what our research question concerns: how to reconcile the appreciation for cultural diversity with policies preventing social fragmentation?

However, before proceeding any further, some introductory notes are needed. First of all, it is worth recalling that the debate which is going to be explored does not solely concern Western countries, as it might be unconsciously, and mistakenly, be perceived. The phenomenon of immigration, as the primary propeller of multicultural developments, does not have a colour nor a flag. For the most part such a phenomenon is the expression of economic and labour considerations. As the world economy is showing more and more, wealth and economic opportunities are no longer restricted to Western countries, but rather growingly include many more countries in the globe. We may just cite a couple of examples. In the United Arab Emirates, the Emirate of Dubai, which certainly is the one attracting more immigrants, represents an extraordinary instance of a multicultural society. “As of 2005, [only] 17% of the population of the Emirate was made up of UAE nationals. Approximately 85% of the expatriate population (and 71% of the Emirate's total population) was Asian, chiefly Indian (51%), Pakistani (16%), Bangladeshi (9%) and Filipino (3%) [...]”¹¹ As for China, in the richest and more flourishing areas of the country, the immigration phenomenon is no more a marginal reality. “On top of the existing 103 million urban migrants, Chinese cities will face an influx of another 243 million migrants by 2025, taking the urban population up to nearly 1 billion people. In the medium and large cities, about half the population will be migrants, which is almost three times the current level.”¹²

Immigration communities obviously develop anywhere economic opportunities arise; it is a universal phenomenon pertaining to mankind as a whole. The debate on multiculturalism is clearly one that affects all the countries in the world, and scholars search for recipes that, at least at the foundational level, are meant to apply universally.

There is one more feature of this discourse characterized to be universal, timeless and reciprocal: intolerance. Intolerance and prevarication are terms familiar to any human society, regardless of their past. Some societies, like those in the United States, Canada or Australia, might be called ‘young’ because of their recent history, markedly founded on immigration flows. Others, like those in Europe and in Asia, might be called ‘ancient’ due to their millennia of history and traditions. Some might say that the former should be advantaged in aptly managing plural societies as already familiar with multicultural issues. Some others might reply that civilizations carrying thousands of

¹¹ ‘Dubai’ demographic composition, extracted from Wikipedia <http://en.wikipedia.org/wiki/Dubai> [accessed 7 January 2012].

¹² ‘Migration in the People Republic of China’, extracted from Wikipedia http://en.wikipedia.org/wiki/Migration_in_the_People%27s_Republic_of_China [accessed 11 January 2012].

years of history should prove fit to deal with social clashes. Unfortunately, both assumptions are incorrect. As the records show, intolerance is colour-blind and timeless.

These observations on universality immediately unveil how the discourse on multiculturalism is ineludibly tied with the one of human rights. We shall see it better in the next section, but what already emerges is how the human rights codex provides a set of essential guidelines for any multicultural system to be sustainable. Evidently, a plural society, composed of many different cultures and confessions, can only function if the governmental system is based on a set of principles and guarantees upholding the inherent need for mutual respect and protection of cultural diversity. Such principles and guarantees are the ones enshrined in the norms of international human rights law, that is the norms that ensure a common universal platform shielding the dignity of human beings whatever their culture or religion is.

It is hence no surprise that the debate looks at democracies as the point of reference. Indeed, at least in theory, States whose governmental system is based on democratic rules ground their functioning on egalitarian ideals, aiming at the equal treatment of all persons. As Kymlicka fittingly describes: “Societal cultures within a modern liberal democracy are inevitably pluralistic, containing Christians, Jews and Muslims; heterosexuals as well as homosexuals; [...] conservatives as well as socialists. Such diversity is the inevitable result of the rights and freedoms guaranteed to liberal citizens [...].”¹³ We may discuss the many defects of democracies but, when confronted with other forms of government (e.g. dictatorships, oligarchies, theocracies, etc), their framework objectively offers the best devices to establish the widest political participation and equal respect of all citizens. With these preambles in mind, we can now enter in the room where the multiculturalism discussion is being held.

2.2 Approaching the multicultural society: Liberals and Communitarians

We should start this section by asking ourselves two questions: what is the debate on multiculturalism really about? What the goals that it pursues? One in particular appears of key importance. Despite the dissimilar views of scholars, the ultimate ambition of all is to elaborate a policy approach able to strike a sustainable compromise for diverse cultures to respectfully and peacefully coexist together. The ‘Eldorado’ that social scientists are looking for is a dimension where locals and immigrants can freely live their identities, without these being a motive for self-segregation or ghettoization. It is of course on the methods of reaching that goal that social scientists take diverging positions. Among the various schools of thought, two are undisputedly identified as the most prominent, and opposed, ones: the Liberalist and the Communitarian.

¹³ Will Kymlicka, “Modernity and National Identity” (n. 4 above), p. 12.

The conceptual division between liberals and communitarians is perfectly condensed in the words of Habermas. “Liberals like Rawls and Dworkin call for an ethically neutral legal order that is supposed to assure everyone equal opportunity to pursue his or her own conception of the good. In contrast, communitarians like Taylor and Walzer dispute the ethical neutrality of the law and thus can expect the constitutional State, if need be, actively to advance specific conceptions of the good life.”¹⁴ Here we are faced with two quite dissimilar visions. For the former, the ideal multicultural society is one where cultural freedom is granted, but the State does not publicly endorse any cultural view. All citizens are equally treated. For the latter, the State needs to actively support, legislatively and politically, collective cultural values, because of their imprescindible guiding role for citizens’ lives.

Clearly, the two strands put at the centre of the dispute the righteousness of State’s cultural neutrality, deemed to either positively or negatively affect two fundamental values of society: (i) the possibility for individuals to choose and pursue their own conception of the good, (ii) the loyalty of citizens towards the State. Both evidently represent strategic elements in building the social consensus in a non-fragmented multinational agora. The first claim seeks to define which State’s conduct best enables citizens’ agency, whereas the second considers the vital knot of the relationship between the State and its citizens. I now analyse both in turn, while the last part will specifically describe how the two schools of thought view the link between cultural diversity and social cohesion.

2.2.1 Cultural neutrality & choice’s capability

The logic behind the support of liberals for the State’s cultural neutrality originates from “[...] the idea that every citizen has a right to full and equal participation in the political, economic, and cultural life of the country, without regard to race, sex, religion, physical handicap – without regard to any classifications which have traditionally kept people separate and behind. The logical conclusion of these liberal principles seems to be a ‘colour-blind’ constitution – the removal of all legislation differentiating people in terms of their race or ethnicity [...]. Liberal equality requires the ‘universal’ mode of incorporating citizens into the State.”¹⁵

Conversely, communitarians put the protection of cultural values at the very centre of the stage, and the reasons for this are soon explained. “A dominant theme of communitarian writings is the insensitivity of liberalism to the virtues and importance of our membership in a community and a culture.”¹⁶ Taylor, in fact, affirms that “ [...] even if liberals have the right account of individuals’

¹⁴ Jurgen Habermas, “Struggles for Recognition in the Democratic Constitutional State” (n. 1 above), p. 111.

¹⁵ Will Kymlicka, *Liberalism, Community, and Culture*, Oxford University Press 1989, pp. 141-142.

¹⁶ Ibid, p. 1.

capacity for choice, they ignore that this capacity can only be developed and exercised in a certain kind of social and cultural context.”¹⁷ Equally, “MacIntyre and Sandel both say that liberalism ignores the way we are embedded or situated in our social relationships and roles. [...] On this view [...] I can interpret the meaning of the social roles and practices I find myself in, but I can’t reject the roles themselves, or the goals internal to them, as worthless. Since these attachments and ends are constitutive of me, as a person, they have to be taken as given in deciding what to do with my life [...].”¹⁸ Kymlicka tries to explain this stance with an example. “A Christian wife in a monogamous, heterosexual marriage can interpret what it means to be a Christian [...]. But she can’t stand back and decide that she doesn’t want to be a Christian.”¹⁹

The fundamentality of cultural contexts is hence spelled out. “Human identity is created, as Taylor puts it, *dialogically*, in response to our relations, including our actual dialogues, with others. [...] If human identity is dialogically created and constituted, then public recognition of our identity requires a politics that leaves room for us to deliberate publicly about those aspects of our identities that we share [...].”²⁰

Because of the centrality of cultural contexts in guiding our capacity to choose, communitarians hold that the State should give cultural groups public recognition and protection through political and normative arrangements. Accordingly, “[...] liberal democratic States are obligated to help disadvantaged groups preserve their culture against intrusions by majoritarian or ‘mass’ cultures. Recognizing and treating members of some groups as equals now seems to require public institutions to acknowledge rather than ignore cultural particularities, at least for those people whose self-understanding depends on the vitality of their culture.”²¹ Otherwise, “[i]n what sense should our identities as men or women, African-Americans, Asian-Americans, or Native Americans, Christians, Jews, or Muslims, English or French Canadians *publicly* matter?”²²

Gutmann concedes that a “[...] reasonable reaction to questions about how to recognize the distinct cultural identities of members of a pluralistic society is that the very aim of representing or respecting differences in public institutions is misguided. An important strand of contemporary liberalism [...] suggests that our lack of identification with institutions that serve public purposes, the impersonality of public institutions, is the price that citizens should be willing to pay for living

¹⁷ Ibid, pp. 1-2.

¹⁸ Ibid, p. 57.

¹⁹ Ibid.

²⁰ Amy Gutmann, “Introduction”, in A. Gutmann (ed.), *Multiculturalism: Examining The Politics of Recognition*, Princeton University Press 1992, p. 7.

²¹ Ibid, p. 5.

²² Ibid, p. 4.

in a society that treats us all as equals, regardless of our particular ethnic, religious, racial, or sexual identities.”²³

To apply this view to everyday life, “[...] our freedom and equality as citizens refer only to our common characteristics – our universal needs, regardless of our particular cultural identities, for ‘primary goods’, such as income, health care, education, religious freedom, freedom of conscience, speech, press, and association, due process, the right to vote, and the right to hold public office. These are interests shared by almost all people regardless of our particular, race, religion, ethnicity, or gender.”²⁴ But, then, she rhetorically asks: “Do most people need a secure cultural context to give meaning and guidance to their choices in life? If so, then a secure cultural context also ranks among the primary goods, basic to most people’s prospects for living what they can identify as a good life.”²⁵ What Gutmann does here is to reformulate the communitarian rationale by reasoning on the conception of primary good and by tabling a sort of goods’ scale. By equalling cultural values to the previously mentioned universal goods, she renders evident how fundamental is the safeguard of cultural contexts to prevent individuals from being culturally levelled and, hence, live a disoriented existence.

Clearly, the liberal reply to communitarian arguments could only stand by proving the non-incompatibility of neutrality with the concerns of cultural protection. The first effort, here made by Kymlicka, requires that it be made unambiguous that liberals are not blind to the essential value of culture. “The decision about how to lead our lives must ultimately be ours alone, but this decision is always a matter of selecting what we believe to be most valuable from the various options available, selecting from a context of choice which provides us with different ways of life. This is important because the range of options is determined by our cultural heritage. [...] From childhood on, we become aware both that we are already participants in certain forms of life (familial, religious, sexual, educational, etc.), and that there are other ways of life which offer alternative models and roles that we may, in time, come to endorse.[...] Our language and history are the media through which we come to an awareness of the options available to us [...] and this is a precondition of making intelligent judgements about how to lead our lives.”²⁶

Kymlicka goes on to openly argue that he finds “[...] of a sovereign importance [...] that the cultural structure is being recognized *as a context of choice*. If we view cultural membership as a primary good within Rawls’ scheme of justice, then it is important to remember that it is a good in

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid, p. 5

²⁶ Will Kymlicka, *Liberalism, Community, and Culture* (n. 15 above), pp. 164-165.

its capacity of providing meaningful options for us, and aiding out ability to judge ourselves the value of our life-plans.”²⁷

But, next, he highlights where the divergence with communitarians lies: “In one common usage, culture refers to the *character* of a historical community. On this view, changes in the norms, values, and their attendant institutions [...] would amount to loss of one’s culture. However, I use culture in a very different sense, to refer to the cultural community, or cultural structure, itself. On this view, the cultural community continues to exist even when its members are free to modify the character of the culture, should they find its traditional ways of life no longer worth while.”²⁸

Consequently, as the State is not to impose on citizens a cultural view of life, neither should cultural collectivities be endowed with such public powers on their members. The conception “[...] of respect for persons *qua* members of cultures [...] doesn’t say that the community is more important than the individuals who compose it, or that the State should impose [...] the best conception of the good life on its citizens in order to preserve the purity of culture [...]. The argument simply says that cultural membership is important in pursuing our essential interest in leading a good life, and so consideration of that membership is an important part of having equal consideration for the interests of each member of that community.”²⁹

All told, “[...] liberalism requires that we can identity, protect, and promote cultural membership, as a primary good, without accepting Devlin’s claim that this requires protecting the character of a given cultural community.”³⁰ Cultural values then should remain a matter of private concern and choice, and should not constitute the basis for public powers, which instead should remain neutral so to allow citizens’ freedom of agency and choice.

The discourse on how to ensure *choice of action* is then reversed by liberalists. On the communitarian side, “Taylor seems to believe that we can acquire these tasks [, our life’s projects,] only by treating communal values and practices as ‘authoritative horizons’ which ‘set goals for us’.”³¹ On the liberal side instead “[...] it is because [our projects] are so important that we should be free to revise and reject them [...].”³²

2.2.2 Cultural neutrality & loyalty

The second claim targeting the State’s neutrality is the one relating to citizens’ loyalty towards the State. Communitarians and liberals are greatly split also on this point.

²⁷ Ibid, p. 166.

²⁸ Ibid, pp. 166-167.

²⁹ Ibid, pp. 167-168.

³⁰ Ibid, pp. 166-169.

³¹ Ibid, p. 50.

³² Ibid, p. 48.

According to the former, “[...] public support will only be forthcoming if public institutions are stable and effective, and that in turn requires that the institutions have legitimacy in the eyes of the citizens who must bear the burdens imposed by those institutions. Taylor believes that political institutions governed by the principle of neutral concern will, empirically, be incapable of sustaining legitimacy [...]”³³ More precisely, neutrality is charged with fostering distance between the State and its citizens. “This ‘distancing’ from the community’s shared form of life, this lack of identification with its common good, means we become unwilling to shoulder the burdens of a just liberal-democratic order, and instead view its demands as illegitimate.”³⁴

Coherently with the communitarian scheme, Taylor reiterates the need for public recognition of cultural values as imprescindible references for citizens which would make them feel part of the State. “Citizens will identify with the State, and accepts its demands as legitimate, if ‘common form of life is seen as a supremely important good [...]’. [...] But this identification is undermined, in part because we now have a political culture of rights in which individuals are free to choose their goals independently of this ‘common form of life’.”³⁵ As a result, “[...] the stability of a just liberal society is not secured by the public recognition of certain principles of right and justice, but also requires some recognition and acceptance of principles of the good life.”³⁶

Radically opposite is the position defended by liberals. Kymlicka explicitly affirms that “[...] the communitarian solution to the problem [of legitimacy] is no solution at all. It rests on a romanticized view of how legitimacy was created in earlier days, and on a naïve view of how our dominant practices have been defined. If legitimacy is to be earned, it won’t be by strengthening communal practices and sentiments that have been defined by and for others. It will require empowering the oppressed and dominated to define their own practices and ends.”³⁷ As for Dworkin, “[...] given the inherent diversity of modern societies [...] we should say instead that politics goes well precisely when we don’t use State power to promote particular conceptions of the good life. Increasing the level of State legitimacy may well require greater civic participation by the marginalized, but [...] it only makes sense to invite people to participate in politics [...] if they will be treated as equals.”³⁸

Habermas further reinforces this stance. “The neutrality of the law vis-à-vis international ethical differentiations stems from the fact that in complex societies the citizenry as a whole can no longer be held together by a substantive consensus on values but only by a consensus on the procedures for

³³ Ibid, p. 81.

³⁴ Ibid, pp. 82-83.

³⁵ Ibid, p. 82.

³⁶ Ibid, p. 83.

³⁷ Ibid, p. 90.

³⁸ Ibid, p. 89.

the legitimate enactment of laws and the legitimate exercise of power. Citizens who are politically integrated in this way share the [...] conviction that unrestrained freedom of communication [...], a democratic process for settling conflicts, and the constitutional channelling of political power together provide a basis for checking illegitimate power and ensuring that administrative power is used in the equal interest of all.”³⁹

On this view, in modern complex societies the State can no longer build social unity and legitimacy on traditional values (as communitarians would argue), and the reason is that society is increasingly composed of diverse cultures and ethnicities. As a result, to build stability and social consensus within such a varied citizenry, liberals say, the State is to look at the universal values of equality of treatment and participation; that is on the values radiating from the human rights norms.

“The ethical substance of a political integration that unites all the citizens of the nation must remain ‘neutral’ with respect to the differences among the ethical-cultural communities within the nation, which are integrated around their own conception of the good.”⁴⁰ Habermas, once again, confirms his distrust for top-down approaches, such as those upheld by communitarians.

“The uncoupling of these two levels of integration notwithstanding, a nation of citizens can sustain the institutions of freedom only by developing a certain measure of loyalty to their own State, a loyalty that cannot be legally enforced.”⁴¹ Citizens, hence, as well as cultural entities, shall be left free to develop their own conception of the good without any influence coming from the State. Their loyalty for the State can emerge only on these grounds.

2.2.3 Looking for sustainability

In this final section I will specifically look at how the two schools evaluate the relation between cultural diversity and social cohesion. Their positions can be so summarized. (i) For communitarians the State needs to publicly endorse cultural diversity. Only through that, citizens can properly orientate themselves in society and hence be capable to consciously make their choices. Only then can the State be viewed as legitimate in the eyes of its citizens, and therefore build a comprehensive loyalty; (ii) for liberals the State is to be absolutely neutral with regard to diversity. In that way citizens are totally free to move within society, without restrictions or imposed guidance, so to experience and evaluate different ‘worlds’, and hence choose in full conscience. In addition, neutrality grants all cultures rights to be equally respected and, for that, the State can develop a loyalty relation with all its citizens. The first one has been labelled ‘politics of difference’ or ‘politics of recognition’, while the second one embodies the ‘the difference-blind’ approach.

³⁹ Jurgen Habermas, “Struggles for Recognition in the Democratic Constitutional State” (n. 1 above), p. 135.

⁴⁰ Ibid, p. 137.

⁴¹ Ibid.

It is helpful to begin by considering how Taylor himself sees the whole controversy. “For one, the principle of equal respect requires that we treat people in a difference-blind fashion. [...] For the other, we have to recognize and even foster particularity. The reproach the first makes to the second is just that it violates the principle of non-discrimination. The reproach the second makes to the first is that it negates identity by forcing people into a homogeneous mold that is untrue to them. [...] The claim is that the supposedly neutral set of difference-blind principles of the politics of equal dignity is in fact a reflection of one hegemonic culture.”⁴²

Indeed, what preoccupies communitarians the most is the danger of cultural levelling that the liberal mind-set would cause. He goes on to remark that “[...] all societies are becoming increasingly multicultural, while at the same time becoming more porous. [...] Their porousness means that they are more open to multinational migration; more of their members live the life of diaspora, whose center is elsewhere. In these circumstances, there is something awkward about replying simply, ‘This is how we do things here’.”⁴³ That is what liberals would allegedly answer to cultural motions. “The awkwardness arises from the fact that there are substantial numbers of people who are citizens and also belong to the culture that calls into question our philosophical boundaries. [...] This brings us to the issue of multiculturalism [...] which has a lot to do with the imposition of some cultures on others [...]. Western liberal societies are thought to be supremely guilty in this regard [...] partly because of their marginalization of segments of their populations that stems from other cultures. It is in this context that the reply ‘this is how we do things here’ can seem crude and insensitive.”⁴⁴ He then questions “[...] whether cultural survival will be acknowledged as a legitimate goal, whether collective ends will be allowed as legitimate considerations in judicial review, or for other purposes of major social policy.”

For Gutmann “[...] full public recognition as equal citizens may require two forms of respect: (1) respect for the unique identities of each individual, regardless of gender, race, or ethnicity, and (2) respect for those activities, practices, and ways of viewing the world [...]. The same thing holds, of course, for *Gastarbeiter* [foreign workers] and other foreigners in Germany, for Croats in Serbia, Russians in Ukraine, and Kurds in Turkey [...].”⁴⁵

Parekh’s position goes even further and targets the ‘illiberality’ of liberal blindness. “‘The liberal [...] privatizes non-liberal ways of life and denies them public recognition, status and support’. [...] If ‘public recognition, status and support’ are to amount to more than verbal gestures by politicians, they must consist of measures granting special legal immunities and powers, to the leaders of

⁴² Charles Taylor, “The Politics of Recognition”, in A. Gutmann (ed.), *Multiculturalism: Examining The Politics of Recognition*, Princeton University Press 1992, p. 43.

⁴³ Ibid, p. 63.

⁴⁴ Ibid.

⁴⁵ Jurgen Habermas, “Struggles for Recognition in the Democratic Constitutional State” (n. 1 above), p. 110.

illiberal groups that will enable them to control their members in ways that would otherwise violate the law.”⁴⁶ In other words, communitarians argue that “[...] cultural membership must be recognized as a basis for legitimate differentiation and, as such, States should be required to allow minority groups to opt out general laws, including constitutional guarantees of equality and fundamental rights.”⁴⁷

Interestingly, a critical reply to these assertions comes from the very same side of the barricade, namely from Michael Walzer (who in fact does not feel completely at ease with being classified a communitarian). He so illustrates the two alternatives. “The first kind of liberalism (‘Liberalism 1’) is committed in the strongest possible way to individual rights and [...] to a rigorously neutral State [...]. The second kind of liberalism (‘Liberalism 2’) allows for a State committed to the survival and flourishing of a particular nation, culture, or religion or of a (limited) set of nations, cultures, and religions [...]. Taylor prefers the second of these liberalisms [...]”⁴⁸

Walzer then turns his attentions to multiculturalism. “Now the State is called upon to take responsibility for everyone’s (cultural) survival. This is liberalism of the second kind [...]. What would the State have to do to guarantee or even to begin to guarantee the survival of all the minorities that make up American society? [...] The various minority groups would need control over public monies, segregated or partially segregated schools, employment quotas that encouraged people to register with this or that group, and so on. Faced with such a prospect, my own inclination [...] would be to retreat to a liberalism of the first kind [...]”⁴⁹ Walzer’s wording leaves no doubt on his position. “Indeed, I would choose Liberalism 1 in part, at least, because I think that immigrants to societies like this one have already made the same choice. They intended [...], were prepared [...], to take cultural risks when they came here and to leave certainties of their old way of life behind. No doubt, there are moments of sorrow and regret when they realize how much they have left behind. Nonetheless, the communities they have created here are different from those they knew before.”⁵⁰ His critique of Liberalism 2 thus concentrates on the implications and the burden that such a policy would represent for the host government.

Quite peculiarly, Walzer’s reflections are very close to Kymlicka’s. “Why have immigrants accepted integration? One reason is that immigrants have already voluntarily left their own culture with the expectation of integrating into another national society. That is exactly what it means to become an immigrant. [...] Moreover, since they typically emigrated as individuals or families,

⁴⁶ Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism*, Harvard University Press 2001, p. 125.

⁴⁷ Dominic McGoldrick, “Multiculturalism and its Discontents” (n. 7 above), p. 37.

⁴⁸ Michael Walzer, “Comment”, in A. Gutmann (ed.), *Multiculturalism: Examining The Politics of Recognition*, Princeton University Press 1992, p. 99.

⁴⁹ Ibid, p. 102.

⁵⁰ Ibid, p. 103.

rather than as entire communities, immigrants lack the territorial concentration or corporate institutions needed to form a linguistically distinct society alongside the mainstream society. To try to recreate such a distinct parallel society would require tremendous support from the host society – not only in terms of language rights, but also in terms of settlement policy, and even the redrawing of boundaries so as to enable some form of self-government – support which no host government is inclined to offer.”⁵¹ Indeed, “[...] whether the exponents of multiculturalism like it or not, no country [...] has so far departed very far from the model of ‘common citizenship rights’.”⁵²

The analysis of the politics of difference made by the liberal egalitarian Brian Barry shifts the focus from considerations on feasibility to considerations on its social effects. For him, “[...] the whole point of the ‘politics of difference’ is to assert that the right answer is for each cultural group to have public policies tailored to meet its specific demands. It is plausible that this can be achieved only by ensuring that members of cultural minorities are able to control public policies affecting them, either by having political power devolved on them or by being granted some kind of special status in relation to the process by which policies are formulated. [...] [W]e have seen these ideas echoed in the work of contemporary multiculturalists, for whom group identities and group loyalties have primacy over any broader, society-wide identity and loyalty. [...] Similarly, Iris Young has suggested that ‘in the twentieth century the ideal State is composed of a plurality of nations or cultural groups, with a degree of self-determination and autonomy compatible with federal equal rights and obligations of citizenship’.”⁵³

He then directly comments Taylor’s affirmations. “The gist of Taylor’s complaint is that the egalitarian liberal position is ‘inhospitable to difference’. Only in the form of a ‘more hospitable variant’ that he favours can it be ‘cleared of the charge of homogenizing difference’. [...] But [...] it is ‘difference-blind’ liberalism that gets the rights answers and the ‘politics of difference’ that should be rejected.”⁵⁴ On this view, the communitarian approach is openly criticized for fostering social fragmentation rather than the encounter of different cultures.

It is still early to draw the final conclusions to the research question as other important contributions are yet to be scrutinized. Nevertheless, if social cohesion is to be protected together with multiculturalism, it appears that the communitarian school presents impedimental features at its very foundational level. Evidently, the communitarian preoccupation to safeguard the integrity of cultural values implies certain rigidities which inevitably stand in the way of inter-cultural mobility

⁵¹ Will Kymlicka, “Modernity and National Identity” (n. 4 above), pp. 18-19

⁵² Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (n. 46 above), p. 21.

⁵³ Ibid, pp. 300-301.

⁵⁴ Ibid, p. 65.

and encounter. Such requirements appear essential for any multicultural society to develop mutual understanding and solidarity among citizens of diverse origins.

To create ad hoc legislations for cultural groups, with a view to preserve the aboriginality of their identity, would seem to create counterproductive consequences. In particular, I identify three aspects of the communitarian approach holding problematic connotations.

Firstly, such policy would trigger a domino effect which could legitimate a potentially infinite chaotic number of derogations, and, inherently, admit also rules in breach of human rights. “In identity-based plural legal regimes a person’s identity must be determined prior to determining the rights or remedies available to her. This process has significant social, political and legal implications and also bestows substantial power on those who preside over it.”⁵⁵ In fact, “[p]lural legal orders provide wide scope for confusion over jurisdiction and the application of law. This is aggravated when mechanisms for addressing such uncertainties, never easy to design, remain unclear. In such cases, even constitutional protections may be inaccessible. Worse, they can increase litigants’ costs, lead to abuse of power, weak law enforcement and impunity.”⁵⁶

Consider for instance “[...] the demands of some Jewish and Muslim leaders in Britain to have Jewish and Muslim personal law given legal effect, [...] the result of this would be to give effect to grossly inequitable rules regarding divorce. It would also permit a man to have any number of wives up to four, adding wives *ad lib* without having to obtain the agreement of the existing one(s). In the case of Muslim personal law, it would also permit a parent or guardian to marry off a minor child without the consent of the child. [...] Sikhs will want exemptions from laws that prevent them from wearing turbans while riding motorcycles or working in construction sites. They will also want to be allowed to wear a *kirpan*, or dirk [(a traditional knife)], even if everybody else is prohibited from carrying offensive weapons in public.”⁵⁷ Evidently, this system would be prone to manufacture chaos and discrimination, and hence lower the level of States’ democracy and transparency.

Secondly, the communitarian project, preoccupied with the conservation of cultural nuclei, would seek the maintenance of cultural walls and, consequently, encourage a society built in silos. This thinking go in the exact opposite way of inter-cultural mobility and dialogue. “The ‘politics of difference’ [...] rests on a rejection of what we may call, in contrast, the politics of solidarity. On this alternative conception of politics [...] citizens belong to a single society and share a common fate.”⁵⁸ In the end, “[...] problems thrown up by uniform system of liberal laws have been relatively

⁵⁵ International Council on Human Rights’ Policy, “When Legal Worlds Overlap Human Rights, State and Non-State Law”, ICHRP Reports, Geneva 2009, p. 74.

⁵⁶ Ibid, p. 75.

⁵⁷ Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (n. 46 above), p. 319.

⁵⁸ Ibid, p. 300.

few. In contrast, the ‘politics of difference’ is a formula for manufacturing conflict, because it rewards the groups that can most effectively mobilize to make claims on the polity [...] around a set of sectional demands.”⁵⁹

An additional outcome of such top-down structuring of society in cultural groups would be to determine citizens’ life aprioristically, based on presumptions of cultural belonging that do not necessarily coincide with the individual wills. “In a communitarian society [...] the common good [...] defines the community’s ‘way of life’. This common good, rather than adjusting itself to the pattern of peoples’ preference, provides a standard by which those preferences are evaluated. [...] The public pursuit of the shared ends which define the community’s way of life is not, therefore, constrained by the requirement of neutral concern. It takes precedence over the claim of individuals to the liberties and resources needed to choose and pursue their own ends.”⁶⁰

The liberal scheme instead regulates citizens’ life only with regard to fundamental rights and freedoms, leaving them with full autonomy on matters of culture or religion. The ‘privatization’ of cultural life not only concedes people wider freedom, but it also inherently fosters inter-cultural mobility, dialogue and exchange. The only line drawn by liberalism to delimit cultural freedom is that of fundamental rights and freedoms, as these constitute the basic conditions for every human being’s life. “Liberals will certainly deny that in a just society members of different groups should have different ‘political rights and obligations’, and that ‘important institutional benefits’ should be available to some while being denied to others. [...] Yet [...] within this common institutional framework members of different groups would observe different customs, emphasize different values, spend their leisure time differently and perhaps have a tendency to cluster in different occupations.”⁶¹

A third and final point goes to considerations on the modernity of the communitarian approach. As Charles Taylor affirmed, nowadays society is becoming more and more porous to diverse cultures. In fact, not only today it’s physically easier and more common to travel and resettle, but also, thanks to modern technology, international communication and exchanges have become a matter of eyes’ blink. The rapidity of nowadays inter-cultural dialogue makes it appear as remarkably anti-historical to imagine society shielded in protective blocks, also because, often, the need for inter-cultural dialogue comes from the inside of those blocks. If governments were to actually try to structure society in those terms, that would definitely give rise to deep asymmetries between rulers and ruled, with the latter living and liaising at another pace than the former. On the contrary, such

⁵⁹ Ibid, p. 21.

⁶⁰ Will Kymlicka, *Liberalism, Community, and Culture* (n. 15 above), p. 77.

⁶¹ Ibid, p. 71.

interactive character of modern times is highly desirable, as a powerful engine for multicultural meeting and understanding.

As per Habermas, the multiculturalism of modern times entails an inevitable blending of visions and habits, both for the hosts and for the guests. This, in other words, prospects a new important nation-building process in mostly all world societies. Envisioning a society structured in cultural silos does not only seem anti-historic and unfeasible, but, above all, it would pose significant setbacks to the stability and the functioning of democracy. Indeed, the neutrality recipe advocated by liberals seems to grant a more sustainable compromise between the appreciation for cultural diversity and the prevention of social fragmentation

With these considerations in mind, we should now look at how the human rights discourse relate to the liberal approach to multiculturalism, and what is its contribution to translate principles into reality.

3. The voice of human rights in the multicultural debate

In the previous section the liberal approach to multiculturalism was identified as seemingly the best one responding to the research question, notably in that it gives ear to people's cultural needs without hindering inter-cultural mobility and, hence, the development of social cohesion. The purpose of this section is to examine what role human rights play in the delicate process of sustainable building of coexistence between local and immigrant communities. More precisely, it will seek to ascertain how human rights relate to the principles of liberal multiculturalism and, secondly, how human rights can constitute an essential platform for inter-cultural solidarity.

The first point will be spelled out by answering two questions: (i) if and how the human rights system is compatible with the liberal view on multiculturalism; (ii) if and how the human rights system translates the liberal principles into real life norms. While the first issue involves philosophical evaluations, the second pertains more to the realm of international law.

The last part of the chapter will be dedicated to reflecting on how human rights can give a key contribution to fostering inter-cultural cohesion.

2.1 Compatibility tests

Because the first question calls into play a comparative analysis, it is essential to depart from a shared definition of what human rights are. To this end, I will take into account the position of the most prominent human rights scholars. According to Jack Donnelly human rights are “[...] equal and inalienable entitlements of all individuals that may be exercised against State and society – [...] a distinctive way to seek to realize social values such as justice and human flourishing.”⁶² James Nickels defines them as consisting of four imprescindible ‘secure claims’: to have a life, to lead our own life, to be protected from cruel and degrading treatment, and to be protected against severe unfair treatment⁶³. These claims “[...] prescribe a secure floor of respect, protection, and provision for each person [...]”⁶⁴ He concludes: “All four principles should be thought as requirements of human dignity.”⁶⁵ As to Henry Shue, human rights are “[...] the rational basis for a justified demand that the actual enjoyment of a substance be socially guaranteed against standard threats.”⁶⁶ In his view, “[...] having a right is tied as closely as it is to human dignity. [...] A world with claim-rights is one in which all persons [...] are dignified objects of respect [...]”⁶⁷

⁶² Jack Donnelly, ‘The Relative Universality of Human Rights’, *Human Rights Quarterly* 29, p. 284.

⁶³ See James Nickels, *Making Sense of Human Rights*, Blackwell Publishers 2007, p. 62.

⁶⁴ Ibid.

⁶⁵ Ibid, p. 66.

⁶⁶ Henry Shue, *Basic Rights. Subsistence, Affluence, and U.S. Foreign Policy*, Princeton 1996, p. 13.

⁶⁷ Ibid, pp. 14-15.

All in all, what human rights configure is an essential collection of rules granting every human being the basic conditions to live a dignified life. Right to life, right of speech, freedom from torture, right to work, right to water, right to fair trial, are just a few examples of what they stand for. By affirming that human rights are ‘universal’, political philosophers mean that human rights incorporate values and norms that are applicable to every single person in the world, regardless of gender, race, culture, religion, nationality, etc, exactly because their area of intervention covers the protection of basic living conditions. “Human rights remain the only proven effective means to assure human dignity in societies dominated by markets and States. [...] The functional universality of human dignity depends on human rights providing attractive remedies for some of the most pressing systemic threats to human dignity.”⁶⁸

That said, we should then recall what the liberal approach is about. As already illustrated, its main peculiarities, criticized by communitarians, are the State’s egalitarianism and cultural neutrality. Communitarians target both, labelling them as vectors of, respectively, homologation and nihilism. However, as seen earlier, such accusations appear unfounded as in reality the area of equalization that liberals profess through egalitarianism merely concerns the indistinctive application of basic rights and freedoms. If granting every citizen their basic entitlements to life means homologation, then this definitely seems a very welcomed form of homologation for the entirety of mankind.

On the second ‘charge’, the State’s cultural neutrality entails no nihilism nor cultural void, on the contrary it stands as an irreplaceable safeguard for society’s most important values. Firstly, it’s a guarantee for all citizens to freely live their culture or religion without restrictions or persecutions coming from the local power. “As far as most culturally distinctive groups are concerned, a framework of egalitarian liberal laws leaves them free to pursue their ends either individually or in association with one another.”⁶⁹ The so-called ‘privatization’ of cultural identity stands as the only way for everyone to practice their own culture in peaceful coexistence with others. “This is a general claim, but let us stick [...] to the paradigmatic case of religion. What can be said about the liberal proposal for privatizing religion, then, is that it is the only way in which religions can be given equal treatment [...]. Similarly, if the society’s major institutions are modeled on the prescriptions handed down by one religion, that must necessarily mean that the views of other believers (and non-believers) will not be equally incorporated.”⁷⁰ That scenario, clearly, is not very promising in terms of mutual respect and peaceful coexistence.

Secondly, the State’s cultural neutrality is the only policy platform that can grant every citizen equal access to basic rights and freedoms without these being distorted by particularistic visions of life, as

⁶⁸ Jack Donnelly, ‘The Relative Universality of Human Rights’ (n. 62 above), p. 288.

⁶⁹ Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (n. 46 above), p. 317.

⁷⁰ Ibid, p. 28.

the politics of difference would entail. “Plural legal orders that are based on ethnic, religious, racial or other identities establish different standards for people with regard to the same issues or disputes. A major consequence of the subordination of rights to an identity regime is discrimination and inequality before the law. For example, in 1995 the minimum age of marriage for females in Sri Lanka was set at 18 years for all except Muslims, who are governed by the 1951 Muslim Marriage and Divorce Act (MMDA). The MMDA does not provide a clear minimum age of marriage for girls, meaning that they can be legally married at a much younger age. The Minister of Justice justified the exclusion of Muslims by referring to the need to ‘recognise adequately the different cultural traditions’ [...]”⁷¹ Other examples of unequal legal clauses, grounded on cultural justifications, also give rise to racial discrimination. “The Committee on the Elimination of Racial Discrimination [for instance] has noted that Zimbabwe’s dual legal system, in which the descendants of black people dying intestate inherit according to customary law while white people inherit according to general law, furthers racial discrimination. As a result, black women have fewer rights than white women.”⁷² Truly, in most States applying “[...] parallel family laws, women are excluded from acting as adjudicators in religious or customary courts, which have jurisdiction to apply such laws, whereas they may preside over courts hearing other civil or criminal law cases.”⁷³ Once again, these cases make plain how imprescindible the invoked State’s cultural neutrality is for every citizen’s equal access to basic rights and freedoms. Clearly, the State’s egalitarianism and cultural neutrality invoked by liberal multiculturalists are in perfect symmetry with the goals pursued by the human rights project.

However, there is a key element that gives final evidence of such reciprocity: the unquestionable primacy that both attribute to basic rights. As we know, communitarian thinking strongly collides with this idea in sustaining the precedence of cultural values on everything else, even on fundamental rights. The integrity of cultural values has always to come first. Charles Taylor’s position, to mention one of the most prominent representatives, gives us an idea of that thinking. “Taylor [in fact] proposes an alternative model that under certain conditions would permit basic rights to be restricted by guarantees of status aimed at promoting the survival of endangered cultural forms of life [...]”⁷⁴ The incompatibility of the politics of difference with the human rights rationale leaves no margin for doubt.

Contrariwise, for liberals, it’s the protection of fundamental rights holding the primacy on everything else, cultural rights included. As Barry explains, if liberalism is certainly open and

⁷¹ International Council on Human Rights’ Policy, “When Legal Worlds Overlap Human Rights, State and Non-State Law” (n. 55 above), p. 73.

⁷² Ibid, p. 74.

⁷³ Ibid.

⁷⁴ Jurgen Habermas, “Struggles for Recognition in the Democratic Constitutional State” (n. 1 above), p. 112.

tolerant towards diversities, it also indicates a core of rights and freedoms crucial to every human being. When these are threatened, their safeguard ultimately is to prevail on any other claim. A liberal, he affirms, is “[...] someone who holds that there are certain rights against oppression, exploitation and injury to which every single human being is entitled to lay claim, and that appeals to ‘cultural diversity’ and pluralism under no circumstances trump the value of basic liberal rights.”⁷⁵

To sum up, the liberal support for an equal enforcement of basic rights, expressed in the support for the State’s cultural neutrality and for the primacy of fundamental entitlements to life, attests a sound compatibility with the ambitions sought by the human rights project. Needless to say, such compatibility substantiates another very important element in favour of the liberal cause.

It is now noteworthy to say a few words on the reasons grounding the universal project of human rights. That, in fact, will also be evidence for additional arguments in support of the liberal thesis. Hence: why is the goal of covering every citizen with the same recognition of basic rights and freedoms an imperative for human society?

In my view, the argumentations pro equality of treatment can be summarized in two linchpin points, one being philosophical, the other pragmatic: (i) equality of treatment is a moral and ethical dogma; (ii) equality of treatment is a matter of social sustainability.

On the first point, we should nowadays take for granted that each human being’s life deserves equal concern. To cite Article 1 of the Universal Declaration of Human Rights is probably the best way to present this argument. “All human beings are born free and equal in dignity and rights.” In these few precious words one can find the conclusions of a centuries long harsh battle, started with the relativizing power of the Scientific Revolution, and later driven by the Enlightenment, to give an end to a traditional society structured on absolutism, prevarication, and classism. In history, the battle for equality has been bloodily fought in an endless number of contexts, the memory of those times frozen in precious constitutional charters. Indeed, “[t]he foundational documents of liberalism are the French Declaration of the Rights of Man and of the Citizen and the American Declaration of Independence. These make universalistic claims, as does, of course, the United Nations Universal Declaration of Human Rights.”⁷⁶ The modern human rights movement is evidently the strand that, born in the devastating aftermath of World War II, managed to collect those principles and give worldwide recognition to a universal need of mankind: the establishment of political and legal instruments to grant everyone the recognition of life’s values.

On the moral imperative’s argument, that every human being is to be granted an even access to basic rights and freedoms, it’s interesting to register an uncommon point of connection between

⁷⁵ Brian Barry, *Culture and Equality: An Egalitarian Critique of Multiculturalism* (n. 46 above), pp. 132-133.

⁷⁶ Ibid, p. 284.

liberalists and feminists. The latter in fact criticize the former for their superficial conceptualization of 'equality'. According to the feminist's view, one argument is for example that colour-blind egalitarianism overlooks the historical deficient conditions of society's weakest categories (e.g. women, blacks, etc.) with the result of further marginalizing them. On States, instead, lies a positive duty to predispose ad hoc rules ensuring these categories special attention, in order to gradually level discrepancies and so actualize real equality of treatment. The modalities to reach such goal aside, it is to note how both strands converge on the priority of basic rights and freedoms, by doing so equally differing from communitarianism, in uniformly endorsing the moral value of egalitarianism.

However, more pragmatically, equality of treatment is also a matter of social sustainability. The peaceful coexistence of society-members can only hold if ruled by a fair 'social contract' rooted to democratic representation and equality of the law. Every member of society accepts to delegate their own 'power' to a central administration in exchange for having administrators whose duty is to exert their power to take care of citizens' needs. Records prove how time and again devastating revolutions were triggered by people whenever they realized that their governing system perpetuated prevarication and inequalities, and hence did not represent their existences.

To have a very recent example of this we need only think of the 2011 Arab Spring. What is happening in North Africa is of extreme importance as it shows how equality of treatment is not a matter of Western culture, as communitarians would argue, but rather a human need crossing every culture, every nation. On this, it's emblematic what Barry answered to an anthropologist asserting that "[...] the eradication of smallpox in India was to be regretted because it had 'eradicated the cult of Sittala Devi, the goddess to whom one used to pray in order to avert smallpox [...]'."⁷⁷ In his words: "It is better to be alive than dead. It is better to be free than to be a slave. It is better to be healthy than sick. It is better to be adequately nourished than malnourished. It is better to drink pure water than contaminated water. [...] It is better to be educated than to be illiterate and ignorant. It is better to be able to practice the form of worship prescribed by your religion than to be prevented from doing so. It is better to speak freely and be able to join social and political organizations of your choice [...]. And so on."⁷⁸

Ensuring everyone the same basic legal entitlements to life, then, is not only a moral imperative, but also the only way to rule multicultural societies in the most stable and durable way. The State's cultural neutrality clearly represents a lighthouse for policymakers, as establishing the pre-conditions for everyone's equal access to fundamental, human, rights.

⁷⁷ Ibid.

⁷⁸ Ibid, p. 285.

3.2 International human rights law & multiculturalism

Human rights, as discussed, constitute a nucleus of culturally transversal rules in that they grant everyone the safeguard of dignity, equality and liberty. The essentiality of such rights has long been acknowledged by public international law.

The corpus of international human rights law is composed of a variety of sources, the first ascertainable legal document being the 1948 Universal Declaration of Human Rights (UDHR). It is important to recall that “[...] broadly supported arguments have developed for viewing all or parts of this Declaration as legally binding either as a matter of customary international law or as an authoritative interpretation of the UN Charter.”⁷⁹ Notably, the UDHR “[...] recognizes two sets of human rights: the ‘traditional’ civil and political rights, as well as economic, social and cultural rights. In transforming the Declaration’s provisions into legally binding obligations, the United Nations adopted two separate International Covenants which, taken together, constitute the bedrock of the international normative regime for human rights [...]”⁸⁰: the 1966 International Covenants on Civic and Political Rights (ICCPR), and on Economic, Social and Cultural Rights (ICESCR). At regional level, human rights have been proclaimed in fundamental charters like the 1953 European Convention on Human Rights (ECHR), the 1986 African Charter on Human and Peoples’ Rights, the 1948 American Declaration on the Rights and Duties of Man, and the 1978 American Convention on Human Rights. In addition, on top of the treaty law, the other linchpin legal reference in international human rights law is the jurisprudence fleshed out by the international judicial and quasi-judicial bodies.

The scope of this section will be to investigate how the main human rights’ sources and actors give actualization to the principles of liberal multiculturalism. The survey will focus on the law of the major international treaties, also known as the Bill of Rights (composed by the UDHR, the ICCPR, and the ICESCR), and the jurisprudence of their monitoring bodies: the Human Rights Committee (HRC) for the ICCPR, the ICESCR Committee, and, with consideration for the specific context of Europe, the European Court of Human Rights (ECtHR), entitled to scrutinize the enforcement of the ECHR.

The normative discourse will be presented through what I consider the three pillars of the liberal-human rights answer to multiculturalism: (i) the protection of cultural rights and freedoms; (ii) the protection of fundamental rights and freedoms; (iii) the ultimate primacy of the latter on the former when they are in competition. I will describe them in turn.

⁷⁹ Henry Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Contexts*, Oxford University Press 2007, p. 152.

⁸⁰ Ibid, p. 263.

3.2.1 The protection of cultural rights

With regard to the protection of cultural rights, we need to define what space international human rights law specifically depute to them. “Interestingly, the concept of multiculturalism [...] does not appear as a term in the major international human rights instruments or in academic human rights texts. It may be considered implicit in the right of everyone to take part in cultural life (Article 27, Universal Declaration on Human Rights; Article 15 (1), International Covenant on Economic, Social and Cultural Rights [...]), or the rights of members of ethnic, religious or linguistic minority groups to enjoy their own culture (Article 27, ICCPR).”⁸¹ As a matter of fact, these provisions only refer to the protection of culture in an explicit manner.

As to the ICESCR, Article 15(1)(a) reaffirms the values of Article 27 UDHR, the right of every person to freely take part in the cultural life of the community. Article 3 ICESCR further strengthens that wording by requiring the State to equally grant men and women the enjoyment of cultural rights. In reality, though, the ICESCR framework makes quite few references to cultural rights. In its General Comments the ICESCR Committee has apparently shown scarce attention to the enforcement of such provisions. One of the few important exceptions is attestable in General Comment 3. There, the Committee defined the so-called ‘minimum core obligations’, that is those obligations of immediate realization - not depending on the local availability of resources - that are pending on every State. “In particular, while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect. [...] One of these [...] is the ‘undertaking to guarantee’ that relevant rights ‘will be exercised without discrimination [...]’.”⁸² The Committee further noted that “[...] it may be difficult to combat discrimination effectively in the absence of a sound legislative foundation for the necessary measures.”⁸³ The Committee here makes an explicit call on States to, at minimum, implement all the legal instruments to ensure a non-discriminatory application of ICESCR’s rights, cultural ones included. Article 15(1)(a) guarantees are therefore to be equally accessible to all citizens.

Significantly, in the same General Comment, the Committee refers to the justiciability of these rights. “In cases where constitutional recognition has been accorded to specific [...] cultural rights, [...], the Committee would wish to receive information as to the extent to which these rights are considered to be justiciable (i.e. able to be invoked before the courts).” The Committee also reaffirmed its supervisory role with regard to the quality of cultural rights implementation. “The Committee would also wish to receive specific information as to any instances in which existing

⁸¹ Dominic McGoldrick, “Multiculturalism and its Discontents” (n. 7 above), pp. 32-33.

⁸² ICESCR General Comment 3, para. 1.

⁸³ Ibid, para. 3.

constitutional provisions relating to [...] cultural rights have been weakened or significantly changed.”⁸⁴

Despite the few mentions of culture, it is nonetheless possible to understand what relevance is attributed to its protection in General Comment 8. The Committee there took into account the harsh conditions of populations living in States undergoing economic sanctions imposed by the international community. “The Committee does not in any way call into question the necessity for the imposition of sanctions in appropriate cases in accordance with Chapter VII of the Charter of the United Nations or other applicable international law. But those provisions of the Charter that relate to human rights (Articles 1, 55 and 56) must still be considered to be fully applicable in such cases.”⁸⁵ Even if cultural rights are not expressly mentioned in this paragraph, Article 55(c) and Article 56 of the UN Charter require States to ensure universal observance for human rights and fundamental freedoms. The ICESCR body then specified. “The impact of sanctions upon the enjoyment of [...] cultural rights has been brought to the Committee's attention in a number of cases involving States parties to the Covenant [...]. [...] In adopting this general comment the sole aim of the Committee is to draw attention to the fact that the inhabitants of a given country do not forfeit their basic [...] cultural rights by virtue of any determination that their leaders have violated norms relating to international peace and security.”⁸⁶ Cultural rights are hence confirmed to fall within the category of entitlements that are to be respected and protected at all times, even in the hard times’ contexts determined by economic sanctions. The Committee’ stance here, directed at the international community, well attests the role that human rights acknowledge to culture.

Now, turning to the ICCPR, we will distinguish a stronger and more explicit defence of cultural motions. The core point of reference in its corpus legis is undisputedly Article 27: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”⁸⁷ Article 27 truly embodies an essential legal guarantee for every cultural minority to live and practice its own traditional values. What in fact significantly marks the difference with the ICESCR’s monitoring system is the quasi-judicial authority attributed to the Human Rights Committee with regard to the Covenant’s breaches. More precisely, the State parties which ratified the First Optional Protocol to

⁸⁴ Ibid, para. 6.

⁸⁵ ICESCR General Comment 8, para. 1.

⁸⁶ Ibid, paras. 2, 16.

⁸⁷ ICCPR, Article 27.

the ICCPR – 114 to date⁸⁸ – are to abide by the ‘views’ issued by the Human Rights Committee in response to citizens’ individual complaints. As Martin Scheinin asserted, “[...] the Committee’s views in Optional Protocol cases are treated as the authoritative interpretation of the Covenant under international law.”⁸⁹

Importantly for immigrants, characterized for not having geographical nation-like concentrations, the HRC clarified that Article 27 configures an individual right, not a collective one, thereby exercisable by every citizen in a personal way. “The Covenant draws a distinction between the right to self-determination and the rights protected under Article 27. The former is expressed to be a right belonging to peoples and is dealt with in a separate part (Part I) of the Covenant. Self-determination is not a right cognizable under the Optional Protocol. Article 27, on the other hand, relates to rights conferred on individuals as such and is included, like the articles relating to other personal rights conferred on individuals [...].”⁹⁰ The legal consequences of such classification are remarkable. “Those terms also indicate that the individuals designed to be protected need not be citizens of the State party. In this regard, the obligations deriving from article 2.1 are also relevant, since a State party is required under that article to ensure that the rights protected under the Covenant are available to all individuals within its territory and subject to its jurisdiction [...].”⁹¹

The Committee went on to directly address the inclusion of migrants in the ICCPR protection of cultural rights: “Article 27 confers rights on persons belonging to minorities which ‘exist’ in a State party. Given the nature and scope of the rights envisaged under that article, it is not relevant to determine the degree of permanence that the term ‘exist’ connotes. [...] Just as they need not be nationals or citizens, they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled *not to be denied*⁹² the exercise of those rights. As any other individual in the territory of the State party, they would, also for this purpose, have the general rights, for example, to freedom of association, of assembly, and of expression.”⁹³

The other ICCPR fundamental norm touching upon a sensitive point for traditions and cultures is Article 18, on freedom of religion. Article 18, in repositing the words of Article 18 UDHR, extensively safeguards the right of everyone to live their own creed. In particular, the “[...] freedom [for everyone] to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship,

⁸⁸ Datum extracted from the United Nations Treaty Collection website http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&lang=en [accessed 12 April 2012].

⁸⁹ Henry Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Contexts* (see n. 79 above), p. 915.

⁹⁰ ICCPR General Comment 23, para. 3.1.

⁹¹ Ibid, para. 5.1.

⁹² Emphasis added.

⁹³ ICCPR General Comment 23, para. 5.2.

observance, practice and teaching.”⁹⁴ And: “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”⁹⁵ In the HRC words, “Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations.”⁹⁶ The top relevance conferred by human rights to religion is also attestable in the inclusion of Article 18 in the list of Article 4(2) ICCPR, the provision defining the so-called inderogable rights. As the HRC recalls, “[...] freedoms [that...] cannot be derogated from, even in time of public emergency [...]”⁹⁷

Almost like an indirect reply to communitarians, the HRC clarified that “[...] the freedom to ‘have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views [...]”⁹⁸ The value of State's neutrality is reaffirmed too. “The Committee is of the view that Article 18.4 permits public school instruction in subjects such as the general history of religions and ethics if it is given in a neutral and objective way. [...] The fact that a religion is recognized as a State religion or that it is established as official or traditional or that its followers comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.”⁹⁹

However, even if essential, one should not judge the human rights protection of culture only from these explicit references. A broader and deeper observation of the human rights system reveals that cultural needs are met in many other indirect ways. In fact, it's the human rights framework as a whole that “[...] have played an important part in providing States with a framework to meet the challenges of multiculturalism. Most human rights apply to everyone and so rights to freedom of expression, association, assembly, [...] property, education, use of language and, perhaps most significantly, the right to equality and the right not to be discriminated against, all have a role in ensuring multiculturalism and accommodating diversity.”¹⁰⁰

Indeed, the principle of non-discrimination constitutes the bedrock pillar of the human rights house and that, obviously, is also a guarantee for everyone to equally access to cultural rights. As the HRC asserted, “[...] Article 2, paragraph 1, of the [ICCPR] obligates each State party to respect and ensure to all persons within its territory and subject to its jurisdiction the rights recognized in the

⁹⁴ ICCPR, Article 18(1).

⁹⁵ ICCPR, Article 18(2).

⁹⁶ ICCPR General Comment 22, para. 5.

⁹⁷ Ibid, para. 1.

⁹⁸ Ibid, para. 5.

⁹⁹ Ibid, paras. 6, 9.

¹⁰⁰ Dominic McGoldrick, “Multiculturalism and its Discontents” (n. 7 above), p. 35.

Covenant without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”¹⁰¹ Further, “Article 26 [...] entitles all persons to equality before the law as well as equal protection of the law [...]”¹⁰²

Hence, while it might be true that “[...] the multiculturalism aspect of a human rights discourse is subliminal or taken for granted [...]”¹⁰³, that nonetheless does not really equate with a lack of substantial protection of cultural needs.

3.2.2 All human beings are born free and equal

In the previous section human rights were described in their aspect of legal guarantees to cultural motions. Now the second important aspect connecting international human rights law to liberal multiculturalism is that regarding the egalitarian enforcement of basic rights. International human rights law in fact incorporates and translates into real life norms the egalitarian principles held by liberals.

Running the risk of prolixity, I will here name some of the most essential human right norms, as this will make reflect on the imprescindibility and universality of such values. Right to life¹⁰⁴, right to non-discrimination¹⁰⁵, freedom from torture and inhumane treatment¹⁰⁶, prohibition of slavery¹⁰⁷, fair arrest, custody and trial guarantees¹⁰⁸, freedom of movement¹⁰⁹, freedom of expression¹¹⁰, assembly¹¹¹ and association¹¹², right to work¹¹³, right to just conditions of work¹¹⁴, right to form trade unions and strike¹¹⁵, right to social security¹¹⁶ and family support¹¹⁷, right to food, clothing and housing¹¹⁸, right to health¹¹⁹, right to education¹²⁰. When we read through this list we can’t deny that the conditions protected by these provisions define the most basic requirements for human life. I have already discussed the reasons grounding the universal value of these norms. What

¹⁰¹ ICPPR General Comment 18, para. 1.

¹⁰² Ibid.

¹⁰³ Dominic McGoldrick, “Multiculturalism and its Discontents” (n. 7 above), p. 35.

¹⁰⁴ UDHR, Article 3; ICCPR, Article 6.

¹⁰⁵ UDHR, Article 7; ICCPR, Articles 2, 3; ICESCR, Articles 2, 3.

¹⁰⁶ UDHR, Article 5; ICCPR, Articles. 7, 10.

¹⁰⁷ UDHR, Article 4; ICCPR, Article 8.

¹⁰⁸ UDHR, Articles 8, 9, 10, 11; ICCPR, Articles 9, 11, 14, 15, 16.

¹⁰⁹ UDHR, Article 13; ICCPR, Article 12.

¹¹⁰ UDHR, Article 19; ICCPR, Article 19.

¹¹¹ ICCPR, Article 21.

¹¹² UDHR, Article 20; ICCPR, Article 22.

¹¹³ UDHR, Article 23; ICESCR, Article 6.

¹¹⁴ UDHR, Article 23; ICESCR, Article 7.

¹¹⁵ ICESCR, Article 8.

¹¹⁶ UDHR, Articles 3, 22; ICESCR, Article 9.

¹¹⁷ UDHR, Article 16; ICESCR, Article 10.

¹¹⁸ UDHR, Article 25; ICESCR, Article 11.

¹¹⁹ UDHR, Article 25; ICESCR, Article 12.

¹²⁰ UDHR, Article 26; ICESCR, Article 13.

matters here is to show, through that list, how the law of human rights succeeds in transposing the theoretical liberal principles into applicable norms.

The world has plenty of examples where the non-egalitarian enforcement of basic rights gives rise to great disparities and, consequently, to situations where a group A arbitrarily decide on a group B's conditions of existence. "In identity-based plural legal regimes a person's identity must be determined prior to determining the rights or remedies available to her. This process has significant social, political and legal implications and also bestows substantial power on those who preside over it."¹²¹

Once again, the politics of difference manifests all its shortcomings. "In Israel, for instance, a fusion of ritual power and judicial authority (in key civil matters) means that defining community boundaries is almost entirely in the hands of religious authorities such as the Orthodox Rabbinate. In consequence, those Jews whose 'Jewishness' according to Orthodox Halachic rules is in doubt (such as those who have migrated to Israel from Russia) are unable to access a full range of rights to marriage and family, in violation of international law."¹²² In Pakistan, "[...] following the 1974 Ordinance declaring Ahmedis to be 'non-Muslim', and in the absence of any general civil marriage law, case law has not decided under what law Ahmedis can be married or even whether marriages concluded before 1974 are governed by the Muslim Family Laws Ordinance (1961). In Indonesia, [...] a religious ceremony is required before a marriage is registered [...] the Indonesian government recognises only six religions (Islam, Catholicism, Protestantism, Buddhism, Hinduism and Confucianism). Other spiritual traditions, such as animists and Baha'is, or indeed atheists, therefore find it impossible to register their marriages or their children's births [...]. Apart from violating international standards on freedom of religion and belief, this violates Article 2 of the CRC, which prohibits discrimination against a child because of parents' religious identity, and Article 7 which guarantees children the right to an identity, including registration after birth."¹²³

Fundamental rights should be recognized and applied to everyone always and in each kind of context. However, such an assumption is even more valid when it comes to complex societies characterized for having citizens of diverse cultural backgrounds. Once again, considerations of morality and justice go hand in hand with those of social sustainability. Multicultural societies can only be handled in a stable and peaceful way if fundamental rights are equally granted to all men and women.

¹²¹ International Council on Human Rights' Policy, "When Legal Worlds Overlap Human Rights, State and Non-State Law" (n. 55 above), p. 74.

¹²² Ibid.

¹²³ Ibid, p. 75.

3.2.3 The primacy of life

Cultural rights and basic rights, we have just seen, are provided by international human rights law with sound and extensive protection. However, a quite delicate question arises now: what happens if the rules envisaged by traditions or religions run over the application of basic rights? As we know, for liberals, basic rights are always to be given primacy on everything else. But, is this position supported by international human rights law?

There is no doubt that, “[...] to the extent that cultural norms shape rights, privileges and responsibilities, and frame many dimensions of personal and social life, they can have significant human rights consequences. [...] On the one hand, the international human rights framework recognises a universal right to culture [...]. On the other, ‘culturalist’ assertions [...] invoke tradition [...] and affirm the centrality of group difference to justice claims [...]. Many of these assertions use a vocabulary of human rights [...].”¹²⁴ While most of the times human rights claims are founded and legitimate, in some other cases they evidently are subject to abuses. In fact “[...] the same [culturalist] assertions may serve the political ends of religious fundamentalisms and those who advance them may deny equal rights to women or homosexuals, wish to suppress religious dissent, or adopt other positions that are antithetical to the letter and spirit of human rights.”¹²⁵

These apparently were the same evaluations that the ECtHR took in *Refah Partisi and Others v. Turkey*. “Refah was a political party founded in 1983. It took part in a number of general and local elections and was increasingly successful. [...] [However] in January 1998 [...] the Turkish Constitutional Court dissolved Refah on the ground that it has become a ‘centre of activities contrary to the principle of secularism’. [...] The applicants alleged that the dissolution of Refah [...] had infringed their right to freedom of association, guaranteed by Article 11 of the ECHR [...]. [...] There was no question but that Refah’s dissolution [...] amounted to an interference with the applicants’ exercise of their right to freedom of association. The key question was whether the interference was justified.”¹²⁶ The verdict emitted by the ECtHR Grand Chamber was a fundamental confirmation of the human rights jurisprudence guidebook. In particular, with regard to freedom of religion, the judges noted that “[...] in democratic societies, in which several religions coexist within one and the same population, it may be necessary to place restrictions on this freedom in order to reconcile the interests of the various groups and ensure that everyone’s beliefs are respected (see, *Kokkinakis v. Greece*...para. 33). The Court has frequently emphasised the State’s role as the neutral and impartial organiser of the exercise of various religions [...].”¹²⁷

¹²⁴ Ibid, pp. 19, 23.

¹²⁵ Ibid, p. 23.

¹²⁶ Dominic McGoldrick, “Multiculturalism and its Discontents” (n. 7 above), pp. 48-50.

¹²⁷ Ibid, p. 50.

Significantly, the Court's conclusions on the merits, which rejected the Refah's applicants thesis, perfectly echo the ideas expressed by liberal multiculturalists. "The Court considers that Refah's proposal that there should be a plurality of legal systems would introduce into all legal relationships a distinction between individuals grounded on religion, would categorise everyone according to his religious beliefs and would allow him rights and freedoms not as an individual but according to his allegiance to a religious movement. The Court takes the view that such a societal model [...] would do away with the State's role as the guarantor of individual rights and freedoms and the impartial organiser of the practice of the various beliefs and religions [...] But the State has a positive obligation to ensure that everyone within its jurisdiction enjoys in full, and without being able to waive them, the rights and freedoms guaranteed by the Convention [...]"¹²⁸ The conclusions reached by the ECtHR in the Refah case coincides with the rationale traditionally upheld by all international human rights bodies.

"In normative terms, international law provides answers to the apparent conflicts between human rights and culture, or between equality and culture, each time favouring the former." This has consistently been the position of international human rights bodies, especially when cultural motions were camouflaged as human rights claims to justify practices antithetical to the protection of basic rights. In this sense, the HRC can be mentioned as best representing the classical human rights approach towards cultural claims. "The Human Rights Committee [...] has made it clear that a failure to comply with the obligation to give effect to the Covenant rights cannot be justified by reference to cultural considerations. In particular the right of members of minority groups to enjoy their culture under Article 27 cannot be used as a justification for violating the rights of others. [...] A clear example is the asserted cultural practice of female genital mutilation. However, this rejection of cultural claims also extends to anti-gay laws, polygamy, apostasy and some restrictions on abortion."¹²⁹ Fundamental entitlements can never be overruled, even in the face of cultural claims. The upshot of such conclusions, coming from the most authoritative international human rights bodies, also implies a definitive rejection of the communitarian proposals.

2.3 Human rights, solidarity drivers

The primacy of basic rights endorsed by international human rights law is not just important because it gives definitive proof of the liberal approach to multiculturalism. Classifying certain rules as imprescindible for human life, evidently, contains a message with powerful connotations for society, especially when it comes to inter-cultural coexistence. "Human rights standards [in fact]

¹²⁸ Ibid, p. 51.

¹²⁹ Ibid, pp. 53-54.

are clear on a range of matters, including that the prohibition of discrimination (for example on grounds of gender) cannot be derogated from; and that no cultural defence is admissible with regard to violence.”¹³⁰ What human rights standards do is to provide mankind with a minimum set of rules for human life to be respected no matter where, no matter when.

The indirect implication of this is to have created a ‘language’ which addresses every human life, and, consequently, every culture. I find myself in perfect tune with professor McGoldrick when he recalls philosopher Spencer’s stance on the role of human rights in multicultural contexts. Spencer in fact made “[...] reference to international human rights as a minimum standard against which to assess cultures [...] social cohesion requires a level of common values, but that it is difficult to agree what these might be. Yet there is one code of ethics which does have a legitimacy beyond that produced by any single government, to which we can all be expected to adhere regardless of background or faith: international human rights standards. Here we have minimum, agreed standards on the treatment of others which outlaw extreme practices.”¹³¹

However, I would like to add, human rights are not just common standards from the legal perspective, human rights actually represent a common matrix of communication for all peoples, a meeting field where everyone can walk and feel part of it. “National judiciaries and administrators may have resort to the language, concepts and methodology of human rights in mediating multicultural disputes. In this sense human rights may be used, explicitly or implicitly, as a lowest common denominator.”¹³² As can be seen, on top of setting universal legal safeguards, human rights provide governments with a common language that can be understood and felt own by all citizens, regardless of their origin or background.

The result of this assumption is essential. Human rights, from all perspectives, make available the socio-political instruments to achieve the longed-for sustainable balance between multiculturalism and social cohesion. On the one hand, they protect cultural freedoms as much as possible (read, as much as they don’t imply a breach of human life’s basic rights). We have shown how “[...] international human rights standards permit distinctions [...] between aspects of culture that are discriminatory (and therefore need reform or removal) and those that are not (and should be retained or strengthened).”¹³³ On the other hand, human rights set a common platform of life’s basic values that crosses every culture and that can facilitate communication and understanding between culturally diverse citizens.

¹³⁰ International Council on Human Rights’ Policy, “When Legal Worlds Overlap Human Rights, State and Non-State Law” (n. 55 above), p. 135.

¹³¹ Dominic McGoldrick, “Multiculturalism and its Discontents” (n. 7 above), p. 43.

¹³² Ibid, p. 55.

¹³³ International Council on Human Rights’ Policy, “When Legal Worlds Overlap Human Rights, State and Non-State Law” (n. 55 above), p. 135.

In many ways, then, the culturally-neutral liberal State and the human rights framework together present the ideal platform to promote inter-cultural solidarity, and, in the long run, for driving the creation of future new imagined communities, the new nation building process driven by globalization times.

However, while the administrative scheme theorized by liberalism and human rights indicates a plausible compromise between respect for cultural diversity and a common platform of basic rights, the second part of the question – how to preserve social cohesion in inter-cultural contexts – still remains unanswered. Liberalism and human rights in fact predispose the conditions for inter-cultural mobility to flourish, but they do not promote it *per se*. There exist multiple cases where governments, even when driven by liberal democratic principles, had to face serious failures in the management of multiculturalism because of the passive way the integration of immigrant communities was planned and actualized. States' laissez-faire attitudes have consistently proven unhealthy for the solidity of society and, in turn, for the quality of democratic participation. On top of removing (the communitarian) *walls*, the multicultural society needs the construction of *bridges*, otherwise other invisible, and in time indestructible, walls rise. This second fundamental aspect of the research question, scrutinized in conjunction with examples of integration crashes, will be the object of the next chapter.

4. Multiculturalism: from words to deeds

4.1 Today's integration for tomorrow's society

The manifest compatibility attested between the liberal approach to multiculturalism and the human rights' framework certainly flags a significant point in this research. In addition, through its emergence as a set of values that, in protecting everyone's basic conditions of living, is potentially shareable by all cultures, human rights constitutes a chief point of reference for inter-cultural communication and mutual understanding.

At the same time, though, we have noted how liberal multiculturalism and human rights, while creating the conditions for inter-cultural cohesion, do not intentionally promote it. Many governments, in fact, even if driven by liberal democratic principles, have witnessed important failures in the management of multiculturalism. The passive way in which the multiculturalization of society has often been handled has brought about scenarios where immigrants were formally endowed with the same rights and freedoms of the local citizens, but in practice were left abandoned to their fate. On this, the top European institutions have in many occasions reminded what the specific goals of integration policies should be, to render them actually effective. "The European Commission suggests that integration 'should be understood as a two-way process based on mutual rights and corresponding obligations of legally resident third country nationals and the host society which provides for full participation of the immigrant' [...]. The Economic and Social Committee (ESC) of the European Union refers to civic integration as 'based on bringing immigrants rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment' [...]."¹³⁴

These calls are not to be underestimated. A superficial management of society's multiculturalization has in fact regularly resulted in the failure of immigrant citizens' social inclusion. That in turn is seen as the original cause which, in many diverse contexts, led societies to a progressive fragmentation, visibly represented by ghettoized areas. As reported by international newspapers and NGOs, there exist endless examples of such malfunctions in Europe.

First for its unfortunate notoriety, the case of the French banlieues, real ghettos where the majority of the population has North African origins and that, because of the inattentive State's conduct, have been left developing alone in degradation. These citizens nowadays live totally apart from the local communities and do not even feel that they are French. "L'Ile St-Denis is among the 'suburbs'

¹³⁴ Lisa Mighton, "Immigrant integration conflict in Malmö through a development communication lens", Malmö University, p. 10 http://dspace.mah.se/bitstream/handle/2043/11753/MightonComDev_Sept29_2010.pdf?sequence=2 [accessed 10 March 2012].

around French cities where immigrants, notably from former North African colonies, have been housed since the 1960s. Blighted by bad schools and endemic unemployment, the suburbs are hard to escape. The immigrants' children and grandchildren are still there - an angry underclass that is increasingly identified through religion. Ten years ago these youths were seen as French 'Arabs'. Now most are commonly referred to, and define themselves, as 'Muslims'”¹³⁵ Today, even if the French State is investing huge amounts of resources to paste the potsherds back and recover these areas, large parts of Banlieues inhabitants hardly trust in public administrators, hardly trust in the communities surrounding their 'world' because, in State's absence, they have developed their own sense of separate community.

In Germany, newspapers continue to register the consolidated presence of “ [...] 'Turkish ghettos' with large populations of Turkish immigrants who have shut themselves off from Germany, don't speak German and don't share the German and European worldview.”¹³⁶ In fact “[f]or decades, German migration and integration policy has been characterised as 'failed', 'deficient', and certainly less effective than that of its European neighbours. Of the now three well-known models of integration – assimilation (France), multiculturalism (Netherlands) and 'guest worker' (Germany) – the German 'anti-integration model' has been seen both in France and the Netherlands as an example of bad practice.”¹³⁷ The famous 2010 speech of Chancellor Merkel on the state of immigrants' integration in Germany provides an important litmus test. To her, “[...] multiculturalism in Germany was a failure and [...] was an illusion to think that Germans and foreign workers could 'live happily side by side. We kidded ourselves for a while that they wouldn't stay, but that's not the reality' [...].”¹³⁸ Registering the failure of foreigners' social inclusion is probably the predictable result of “[...] a country with no special integration policy [...].”¹³⁹ As to Spain, “[w]ith 4.5m foreigners living in Spain (10 per cent of the population, a higher percentage than in France, the UK or Germany), policymakers are concerned about the growth of immigrant ghettos [...].”¹⁴⁰ These evidently are just a few examples of situations where

¹³⁵ “Ghettos shackle French muslims”, extracted from the British newspaper BBC News <http://news.bbc.co.uk/2/hi/4375910.stm> [accessed 28 January 2012].

¹³⁶ “Muslim integration”, extracted from the German newspaper Der Spiegel <http://www.spiegel.de/international/1,1518,329248,00.html> [accessed 28 January 2012].

¹³⁷ “What Is The Dutch Integration Model, And Has It Failed?”, Focus Migration Policy Brief, n. 1 April 2005, p. 1, http://focus-migration.hwwi.de/typo3_upload/groups/3/focus_Migration_Publikationen/Kurzdossiers/PB01_-_Dutch_Integration.pdf [accessed 14 April 2012].

¹³⁸ “Merkel's Rhetoric in Integration Debate is 'Inexcusable'”, extracted from the German newspaper Der Spiegel <http://www.spiegel.de/international/germany/0,1518,723702,00.html> [accessed 14 April 2012].

¹³⁹ “What Is The Dutch Integration Model, And Has It Failed?” (n. 137 above), p. 2.

¹⁴⁰ “Spain fears downturn will radicalise ghettos as immigrants bear the brunt”, extracted from the British newspaper Financial Times <http://www.ft.com/cms/s/0/3b90123a-d133-11dc-953a-0000779fd2ac.html#axzz1klVVjykt> [accessed 28 January 2012].

underestimating attitudes and the lack of active integration policies have allowed for the propagation of intangible but enduring walls between local and foreign citizens.

Once urban areas with high concentration of foreigners are left growing in disconnection from the local fabric, it is then enormously complex and expensive to 're-plug' them into the city's vital sectors. The ghettoization process triggered by the unconcern or unpreparedness of local administrators is one that generates a series of long-term disruptive consequences, for immigrant communities as for the host society. As to the immigrants, living in ghettos means being left apart from qualitative public services and educational/working opportunities, not to mention the presence of criminal organizations that often gain control over areas where the State is lacking. Further, people coming from marginalized areas are frequently discriminated against when looking for jobs. In other words, ghetto inhabitants get indirectly forced to remain in a 'cage', in a mechanism that self-feeds itself in a vicious circle.

In these conditions, immigrants are clearly not encouraged to interact with the local reality, and as a natural upshot remain in the comfortable bubble of their cultural community. The case of Malmö, in Sweden, is emblematic. "Malmö is struggling to adjust to its relatively new identity as a city made up of diverse cultures, ethnicities and religions. Though 'ethnic' or 'native' Swedes may support the idea of an intercultural environment, many who were born in the country associate immigrants with crime, reliance on social welfare, poor school results, and segregation [...]. There is a divide that includes...the high unemployment rate amongst those with foreign background, differences in educational achievement, as well as financial vulnerability and child poverty [...]." ¹⁴¹

Obviously, such a dramatic picture is tantamount to destabilizing consequences also for the host society. Leaving these areas developing separately, as if they were exogenous entities of no concern for the locals, is definitely the most efficient way to cause immigrants' self-segregation and, in time, serious social fractures. Sweden again, as a worldwide model of a functioning welfare system, aptly demonstrates how this phenomenon can occur anywhere. "So for those who hold this 'brand impression' of Sweden it may be surprising [...] to witness the frequency of media reports on immigrant-attributed violent incidents in Malmö, and to see or read interviews or specific stories to do with crime in the city district of Rosengård [...]." ¹⁴² The situation hereby reported evidences how certain neighbourhoods in Malmö, with a majoritarian presence of immigrant citizens, have been left growing *differently* from the vital areas of the city's community. The results of such a two-speeds development reverberated in the lives and in the choices of, in the case at hand, Rosengård's citizens. Once more, equality of treatment emerges as a moral dogma that is always to be

¹⁴¹ Lisa Mighton, "Immigrant integration conflict in Malmö through a development communication lens" (n. 134 above), p. 11.

¹⁴² Ibid, pp. 9-10.

accompanied by practical considerations of social sustainability, on pain of long-term harmful repercussions.

Today, it is plain how essential is for States to carefully manage immigration and actively follow the integration process of newly arrived immigrants, right from the beginning. By attentively providing guidance to foreigners, the State can effectively succeed in bridging the two ‘worlds’ and avoid subsequent social ruptures. Communication and participation appear as the two essential aspects of human sociality that need to be enhanced within integration programmes. On one side the State needs to make sure that communication setbacks are minimalized to the greatest extent possible; on the other it must actively grant foreigners access to rights and opportunities. Both actions are paramount not to leave immigrants behind and to make them really feel a sense of belonging to the broader community.

On the first point, only if immigrants are efficiently assisted in understanding their new reality and their rights, the communication gap with locals can be diminished and hence, interaction facilitated. Communication, in turn, is key to promote the real participation of newcomers into the civic life of the local community. A dynamic approach is ultimately beneficial for both sides. Immigrants are assisted in decrypting their new environment and are hence encouraged to interact with it. Their progressive advance towards the local world (in schools, jobs, etc.) sets into motion a process of eased mutual communication with local citizens, who less and less feel the distance with the newcomers. Such reciprocal blending, grounded on assisted communication and participation, can constitute the best recipe towards a sound inter-cultural society building.

To show how active integration policies can help achieve that goal, I will here present examples taken from the two European realities than I know better: Bologna in Italy, and Oslo in Norway. As to the first, I will describe the results of my direct experience of working at Info-Bo, a local NGO assisting immigrant citizens in Bologna; whereas for the Norwegian context, I will refer to the figures kindly provided by Juss-Buss, a law students’ free legal aid organization, and the Norwegian Directorate of Integration and Diversity (IMDi).

4.2 The Bolognese context

The precious experience of working at Info-Bo has given me the opportunity of being in direct contact with immigrant citizens’ realities every day. Info-Bo is in fact a Bolognese non-governmental organization specialized in providing bureaucratic assistance to immigrants settling down in the province of Bologna. In particular, on top of the general orientation services, the chief activities are two: (i) processing the Bologna district’s family reunification applications on behalf of the Prefecture of Bologna; (ii) driving a network with Bologna’s public schools and cultural

mediators to offer comprehensive assistance to the families of newly arrived minors. As I am about to show, these two activities are tightly inter-dependant.

With regard to the first, Info-Bo represents a quite unique case in Italy as being the only private organization granted the concession to operate as an official branch of a Prefecture. Prefectures in Italy are the operational branches, at provincial level, of the Ministry of Home Affairs, and as such are in charge of administering the issues concerning public order, civil and political rights, and immigration. In addition, Prefectures are the provincial representatives of the central government of Rome. Under this framework, Info-Bo functions as the branch of the Prefecture of Bologna in charge of examining and processing the family reunification applications.

This really constitutes a sensitive area of work as in fact family reunifications represent one of the main entry gates for immigration flows. Also “[t]he Council of Europe Committee of Ministers has pointed out that ‘family reunification is one of the major sources of immigration in most European States [...]’.”¹⁴³ With regard to Italy, family reunifications in 2012 will be even more crucial as, due to the current economic crisis and the rising unemployment rate (300.000 immigrant citizens are estimated to be unemployed at present), the Italian government decided not to issue the yearly immigration quotas decree for working visas (*decreto flussi*)¹⁴⁴. Basically, in 2012, immigration flows to Italy will be regulated almost only through family reunifications.

As a personal note, working in this field is also very important from a human perspective, as it requires the balancing of the professional side of the job, concerning the examination of the cases, with the delicate aspect of relating with diverse, and at times problematic, family situations. As the International Organization for Migration (IOM) recalled, “[...] host States are obliged by international human rights law to strike a fair balance between their own lawful interests (such as public order or security) and the migrants’ fundamental right to respect for their family life and unity.”¹⁴⁵ This is exactly the frontline where Info-Bo operates. By the Italian law, acceptance of family reunifications is subject to the positive meeting of a set of criteria codified in the EU Directive 2003/86/EC. Notably, three areas of requirements are essential to grant an application: the family relation’s validity, the housing availability and safety standards, and the parent’s income to sufficiently ensure the child’s wellbeing¹⁴⁶.

¹⁴³ “International Law and Family Reunification”, extracted from the International Organization for Migration website <http://www.iom.ch/jahia/Jahia/about-migration/developing-migration-policy/migration-family/international-law-family-reunification> [accessed 11 March 2012].

¹⁴⁴ Information extracted from the Italian newspaper La Repubblica, not available in English http://www.repubblica.it/politica/2012/01/13/news/immigrati_con_la_crisi_si_cambia_basta_decreto_flussi_e_meno_stagionali-28068868/ [accessed 11 March 2012].

¹⁴⁵ “Family Reunification Issues”, extracted from the International Organization for Migration website <http://www.iom.ch/jahia/Jahia/about-migration/developing-migration-policy/migration-family/family-reunification-issues/cache/offonce;jsessionid=9E2AA65CD36FCF490650407C6D712C2F.worker02> [accessed 12 March 2012].

¹⁴⁶ See in particular Article 7, EU Directive 2003/86/EC,

As anticipated earlier, this part of the job relating to the legal administration of family permit applications is closely tied to the other, the EU funded project dealing with the school enrolment and integration of newly arrived children. Due to its role of family reunifications' supervisor for the entire Bologna district, Info-Bo holds a strategic position in monitoring and registering all the new arrivals. The schooling orientation service run by Info-Bo is part of a European Union (EU) project funded by the European Fund for Integration of non-EU immigrants (EIF). "With a budget of EUR 825 million [...], the EIF supports national and EU initiatives that facilitate the integration of non-EU immigrants into European societies. [...] The EIF is primarily targeted at newly arrived immigrants. It supports EU States and civil society in enhancing their capacity to develop, implement, monitor and evaluate integration strategies, policies and measures [...]. Concretely, such initiatives include programmes for improving diversity management in neighbourhoods, intercultural training and dialogue, the promotion of courses for better understanding the integration processes, platforms and tools for comparative learning, measures for sharing information and best practices among European integration practitioners [...]."¹⁴⁷

As to Info-Bo, the organization's activities are realized through three key stages. First, is an essential preparatory phase. When the parents, applying for a reunification, go to Info-Bo to present the required documents, we also inform them about the papers to be prepared from the country of origin for the child's future school enrolment in Bologna. Then, a second very important moment is when the child arrives to Italy and the parents, together with him, go to the Prefecture to withdraw his first permit of stay. There we provide the family with detailed explanations about the procedures to be followed for the school enrolment, the access to public healthcare, the residence/id card withdrawal, and other administrative duties. The final step is an ad hoc meeting with the family at Info-Bo offices. That is a very important occasion to talk together with the parents to understand what the child's needs might be (depending on the nationality, the religion, the family situation, etc), and we directly liaise with the schools to grant him a place to study. At these meetings the essential participation of a mothertongue cultural mediator is always ensured; such contribution is key to facilitating communication and avoiding misunderstandings. Cultural mediators also play a fundamental role in accompanying the families at school when needed, and in assisting the education of the child in his new Italian environment. In addition, we make sure that, after the child's school enrolment, his integration path in the classroom is properly followed. When needed, and if the school's Directorate authorizes us, we meet up with the child's teachers to verify if more weekly hours of mediation service are necessary.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:251:0012:0018:en:PDF> [accessed 12 March 2012].

¹⁴⁷ "The European Integration Fund", extracted from the European Commission Home Affairs website

http://ec.europa.eu/home-affairs/funding/integration/funding_integration_en.htm [accessed 11 March 2012].

In doing these activities Info-Bo officers come across families of many diverse cultures, from Asia to Africa, from East-Europe to Central and South America. We meet atheists, Buddhists, Christians, Hindus, Muslims, Sikhs, etc. Significantly, despite such a variety of backgrounds, the vast majority of families show true appreciation for the mediation service we offer and for the commitment we demonstrate in granting their children access to education and healthcare. Family really is a universal colour-blind value. One more time, this experience proves how certain primary values cross-cut every culture and constitute a common platform of encounter for all human beings. Notably in Bologna, Info-Bo has come to represent a useful point of reference for immigrant citizens to decipher their new reality, a place they know they can go to receive assistance, a bridge which connects their world to ours. That provides a valuable contribution to ensure immigrant families' access to rights and educational/working opportunities just like local citizens, and, at the same time, to encourage their interaction with the new reality.

4.3 The Oslonian context

Norway, like Italy, is a country where important immigration flows only date back to 15 years ago. In this way, the two countries are definitively similar and, at the same time, distinguish themselves from contexts like France or the United Kingdom, where instead historical immigrations are known since decades. Like many observers remarked, States with less experience in the immigration area, though apparently disadvantaged, can in reality hold a privileged position as they can learn from the policy mistakes made in countries with traditional immigration flows, and avoid their replication ab origine (e.g. the development of ghettoized areas).

As to Norway, its “[...] modern migration policy is based on the idea that the welfare state, the thread that ties Norwegian society together, has limited resources. [...] [Accordingly] the concept of integration included the *obligation to participate*¹⁴⁸, partly to achieve a successful multicultural society, and partly to improve the success of the welfare state. In practice, this includes measures specifically aimed at immigrants, including language training, labour market integration, and initiatives to prevent racism and xenophobia.”¹⁴⁹

Two main actors drive and follow up the integration path of newly arrived immigrants: the Norwegian Directorate of Immigration (UDI) and the (previously mentioned) IMDi. The UDI “[...] is the central executive administrative agency in the area of immigration and refugees in Norway. The Directorate is under the authority of the Ministry of Justice and the Police. [...] UDI's main

¹⁴⁸ Emphasis added.

¹⁴⁹ “Norway: Migrant Quality, Not Quantity”, extracted from the Migration Policy Institute website <http://www.migrationinformation.org/Feature/display.cfm?ID=307> [accessed 30 March 2012].

task is to process applications for residence and work permits in Norway.”¹⁵⁰ As to the IMDi, “[t]he Directorate cooperates with municipalities, government agencies, immigrant organisations and groups and the private sector. The Directorate is under the authority of the Ministry of Children, Equality and Social Inclusion and it is charged with implementing integration and diversity policies in the ministry’s areas of responsibility.”¹⁵¹

As to the family reunifications, “[r]esidence permits in Norway can be granted to foreign nationals who are family members of Norwegians or foreign nationals who have legal residence in Norway. Family immigration permits are primarily granted to immediate family members such as spouses, registered partners, cohabitants of more than two years and children under the age of 18. As a rule, there is a requirement for guaranteed subsistence in order to be granted a family immigration permit.” If comparing Oslo to the context of Bologna, it might be claimed that Info-Bo joins in one unique entity the duties separately administered in Norway by UDI (the examination of family permits’ applications) and IMDi (the subsequent coordination of integration policies).

In general the immigrant’s integration path in Norway begins with the positive decision issued by the UDI which also contains a memorandum indicating the immigrant’s rights and duties. Once the person arrives and settles in Oslo, he will be automatically assigned to the administration of the corresponding municipality. Shortly after, the municipality takes contact with the immigrant to invite him to an introductory programme, which is considered both a right and an obligation. During this programme the immigrant is helped to learn some basic Norwegian (Norskoppl ring), basic information about the Norwegian society (Samfunnskunnskap), and go through training which will prepare him for further education or work.

With regard to minors, the IMDi subsidizes Oslo’s municipalities to grant a service which, albeit not being specifically directed at newly arrived children, is of extreme relevance for immigrant families. The programme is called Early Childhood Education and Care (ECEC) and it’s dedicated to children less than 6 years old. “The ECEC sector is regulated by the Kindergarten Act [...]. Children from the age of one have an individual legal right to a place in a kindergarten institution. [...] The free core time is four hours a day. The aim is to improve the language and social skills of children prior to starting school by increased participation in kindergarten. The program includes raising parents’ awareness regarding the importance of learning Norwegian as well as participating

¹⁵⁰ “The Norwegian Directorate of Immigration”, extracted from New In Norway <http://www.nyinorge.no/en/New-in-Norway/Useful-information/Public-agencies/The-Directorate-of-Immigration/> [accessed 30 March 2012].

¹⁵¹ “The Norwegian Directorate of Integration and Diversity”, extracted from New In Norway <http://www.nyinorge.no/en/New-in-Norway/Useful-information/Public-agencies/The-Norwegian-Directorate-of-Integration-and-Diversity/> [accessed 30 March 2012].

in social activities. The program also aims to ensure that kindergarten staff have adequate expertise on multicultural education and language stimulation.”¹⁵²

While the IMDi confirms that there are no specific public projects expressly directed at children arriving on the ground of family reunifications, at the same time the Directorate annually grants money to NGOs, such as Save the Children or the Red Cross, for projects aimed at supporting/guiding newly arrived immigrants. Thanks also to the precious contribution of volunteers, immigrant families and unaccompanied minors are encouraged to meet in multicultural fora where they can receive information and guidance, and where they can be involved in social activities, including homework assistance carried out in cooperation with schools.

According to the IMDi figures, “[i]n recent years there has been positive progress with regard to participation in nurseries/kindergartens and the education system among immigrants and their descendants. However, there are still challenges in terms of facilitating better transition from kindergarten and primary school through secondary school and on to university or college so that more children successfully complete their studies. [...] The trial-projects show that around 30% of multi-lingual children need follow-up, that the need for follow-up, first and foremost, relates to the mastering of Norwegian language [...]”¹⁵³

The IMDi evaluations prove how important is to provide newly arrived minors with extensive assistance throughout their education/integration path, in order to avoid social dispersions. “In 2007, for example, 5,200 children of primary-school age moved to Norway. Very few immigrant children know Norwegian before arrival and they therefore face greater problems than Norwegian-born children in following the tuition given. These children have a higher risk of dropping out of education or failing to graduate, which dropout statistics confirm. To prevent dropouts, there is a need to strengthen targeted measures that enable pupils to better understand what is being taught, combined with measuring what they have learnt.”¹⁵⁴ Once again the instruments to foster communication and social participation of newcomers are indicated as fundamental.

4.4 Conclusions

What the Italian and the Norwegian cases configure is a serious attempt to carefully drive the integration path of the most fragile group of immigrant citizens: minors. Evidently, the quality of their integration plays an essential role in providing the host society with a precious instrument to develop a bridge between their parents and the local community. Governments and public

¹⁵² “Free core time in kindergarten in areas with a high proportion of language minority children”, leaflet kindly provided by Mrs. Anne Edman, Senior Adviser at IMDi.

¹⁵³ “Overview 2008: How Well Is Integration Working?”, extracted from the IMDi website http://www.imdi.no/Documents/Rapporter/Overview_2008_ENGLISH.pdf, p. 15 [accessed 24 March 2012].

¹⁵⁴ Ibid, p. 16.

administrations actually hold in their hands the keys to help immigrant families adapt to their new reality. Today, children and teenagers, locals and foreigners, can interact and learn from each other a lot easier than their parents, because they spontaneously speak an international unwritten language: play. Of course, though, to grow together they need to be helped through communication support and participatory activities, especially inside schools. Children really constitute the embryo of tomorrow's inter-cultural society. If integration programmes in schools properly work today, the sons and the daughters of immigrant families will be more likely to achieve full social inclusion, to rights and opportunities, tomorrow.

To build a society where everyone can be different, in mutual respect, but at the same time feel part of a community, investing in integration activities is simply imprescindible. The Italian and the Norwegian contexts here attest the will to believe in a long-term perspective based on attentive integration policies and services which, hopefully, will mark the difference for the cohesion's level of tomorrow's society.

5. Concluding reflections

This work has been an attempt to investigate a quite delicate area of study, which will more and more connote policy-makers' agendas in the years to come: how to reconcile, in modern complex societies, respect for cultural diversity with the preservation of society's cohesion. Clearly, the contemporary social puzzle is being composed of an increasing number of pieces, and, as it goes, it becomes more and more challenging to keep them all together. As above shown, social fragmentation is something that States seriously need to thwart for several key reasons, in particular because of long-term detrimental effects such as immigrants' self-segregation, urban ghettoizations, wide human-development gaps and, consequently, structural social discriminations; in other words a fragmented society results in the most fertile field to grow enduring roadblocks to a peaceful and democratic multicultural coexistence.

While assimilation and homogenization are to be strongly rejected because nullifying the preciousness of everyone's own identity, at the same time it appears of key importance to define how social solidarity can flourish in culturally diverse contexts as that will mark the difference in tomorrow's level of democracy and social stability. With that goal in mind, investing in active integration policies to drive immigrants' actual inclusion in their new environment appears of strategic importance.

I believe this research has significantly shown that, in order to achieve multicultural understanding and harmony, encouraging inter-cultural mobility represents the basic entry requirement of any realistic integration policy. Only by giving space to communication and exchanges, culturally diverse communities can actually interact and get to know (learn from) each other. For that reason, the communitarian approach and the politics of difference, preoccupied with identitarianism and the impermeable conservation of traditions, collided by default with the objective of the present work. The liberal mind-set, instead, by attributing basic rights top prominence, and by subordinating cultural rights to them, defines a *super partes* 'starting point' for all, a common platform of essential entitlements belonging to every human being. Having a minimum set of universal 'game rules' to ensure respect for everyone's life and dignity not only is imprescindible but it also constitutes a fundamental component of integration policies on which grounding inter-cultural communication, mutual understanding and, hence, progressive social cohesion. The culturally-neutral liberal State, by treating every citizen in the same way and by leaving everyone freedom of cultural choice – with the only limit set by basic rights – offers the best framework to ensure respect for diversities, promote cultural mobility, and, at the same time, administer the State's community as a unique entity.

To test the validity of the liberal and communitarian diverging positions, I have then confronted them with the human rights framework, as the international point of reference recognizing and shielding human beings' essential prerogatives to life. Plainly in contrast with communitarianism, the liberal approach to multiculturalism proved to be comprehensively compatible with the human rights discourse's rationale, both from a philosophical and a jurisprudential standpoint. That marked a fundamental confirmation in the thesis' reasoning.

Nonetheless, while the administrative schema theorized by liberals, designing a balance between respect for cultural diversity and universal basic rights, seemed to indicate a sustainable compromise, the second part of the question – how to preserve social cohesion in inter-cultural contexts – still remained unanswered. It was in fact noted how many countries, even when inspired by liberal democratic principles, had to witness strategic failures in the management of their society's multiculturalization. Liberalism and human rights, while indeed predisposing the conditions for inter-cultural mobility to flourish, do not promote it *per se*. The construction of inter-cultural social cohesion requires States to set out positive efforts to help newcomers be socially included in their new reality. Dynamic integration policies are to be defined and actualized, as the only way to make the interaction between local and immigrant citizens truly effective and solid. On that, the language of human rights can really offer the best instrument to facilitate inter-cultural understanding and identify a common *agora* of encounter and exchange. Through the language of basic rights and democratic participation the path of newcomers is to be attentively cared so to concretely assist them in getting familiar with their new reality and, hence, actively handle/shape it together with the other communities. The activities described in the Italian and in the Norwegian experiences tabled very important examples of how that can be done. Such activities can ultimately make the difference in achieving, or not, a future multicultural society where its members, albeit culturally diverse, can all feel part of a community not centred on nationalities, religions, races, or any other distinctive character, but rather on the fact of being humans holding the same basic needs and aspirations.